Question MEE 6 – July 2025 – Selected Answer 1

1. Whether Jane is directly liable to neighbor in a negligence action.

Under agency law, an agent is typically liable for their own tortious conduct. A prima facie case for negligence requires proof of: (i) duty, (ii) breach, (iii) causation, and (iv) damages.

i. Duty

Under the restatement of torts, a duty to act as a reasonably prudent person is owed to all foreseeable plaintiffs that are within the zone of danger. A person is within the zone of danger if there is a foreseeable risk of harm.

Here, Jane owed a duty to the neighbor to act as a reasonably prudent person because it is foreseeable that had Jane not put the truck in park that injury could occur to the neighbor or their property.

Thus, Jane owed a duty to neighbor.

ii. Breach

Under the restatement of torts, a defendant breaches their duty of care when their conduct falls below the requisite standard of care. The general standard of care is to act as a reasonably prudent person.

Here, Jane breached her standard of care when she was distracted by the phone call on her cell phone and left the truck without shifting it into "park" and did not engage the parking brake before she walked to the homeowner's front door. A reasonable person would, when leaving a vehicle on a hilly street, put the car in park and potentially even put the parking brake on to prevent the car from rolling away and injuring someone.

Thus, Jane breached a duty of care.

iii. Causation

Under the restatement of torts, causation requires proving both actual and proximate cause. Actual cause refers to the but-for test which establishes but-for the defendant's conduct, plaintiff's injury would not have occurred. Proximate cause has to do with

foreseeability and a defendant will only be liable for the damages that are reasonably foreseeable in a sequence of events that are unbroken by a superseding event.

Here, Jane is the but-for cause because without her failing to put the truck in park and put the parking brake on, the truck would not have rolled down the hill and hit the neighbor's vehicle. Additionally, Jane is the proximate cause because it is reasonably foreseeable that failing to put a car in park on a hilly street would result in it rolling down and injuring someone or something. Despite the post holding the sign being the actual item that came in contact with the car, the injury is still foreseeable and does not cut off the chain of causation.

Thus, Jane's failure to put the truck in park is the cause of the neighbors injuries.

iv. Damages

Under the restatement of torts, a plaintiff must suffer some actual harm to their property or their person to recover for negligence.

Here, the neighbor suffered harm because the truck hit the street sign that landed on the neighbors luxury vintage car that sustained $55,000 in damages. Further, the neighbor suffered severe emotional damages.

Thus, the neighbor suffered damages.

Thus, Jane may be directly liable to the neighbor in a negligence action.

2. Whether Quick Mailboxes is liable to the neighbor either directly or vicariously.

Under tort law, an employer may be liable to another for their employee's torts either directly through negligent hiring or indirectly by being vicariously liable.

i. Directly

Under the restatement of torts, an employer may be directly liable for their employee's torts if they engaged in negligent hiring.

Here, there is no indication that Quick Mailboxes negligently hired Jane. Quick Mailboxes conducts background checks on all of its employees, verifies that they have

appropriate driver's licenses, and trains them as needed. There is no indication that Quick Mailboxes did not adhere to these standards in hiring Jane.

Thus, Quick Mailboxes is not directly liable in tort to the neighbor.

ii. Vicariously

Under the restatement of torts, an employer can be held vicariously liable for the negligent conduct of its employee when the employee commits a tortious act while acting within the scope of their employment. To determine whether the employee was within the scope of employment, courts often look to whether the employee was on a frolic or a detour. A frolic is a minimal deviation from their job responsibilities whereas a detour is a major deviation.

Here, Jane was acting within the scope of her employment because, even though she took a personal call on her cell phone, she was stopped on the street to survey the homeowner's mailbox. The phone call is likely to be considered a minimal deviation rather than a major deviation because the call was only three minutes and she was at the location that she was supposed to be at for her job. Further, Jane is an employee of Quick Mailboxes, not a mere independent contractor and Jane's truck, the one that caused the injury, is owned by Quick Mailboxes.

Although it can be argued that the cell phone call would be a substantial deviation because it is the tortious conduct that resulted in Jane's distraction and the truck rolling down the street, this argument is likely to fail because Jane was at the location for her job that she was supposed to be at and the phone call was only three minutes.

Thus, Quick Mailboxes is likely vicariously liable to the neighbor for Jane's tortious conduct.

3. Whether the homeowner is liable to the neighbor because the homeowner hired Quick Mailboxes.

Under the restatement of torts, a person is generally not liable for the tortious acts of an independent contractor. Courts tend to look at the nature of the relationship and whether the defendant had control over the contractor's actions or how the contractor performed the job.

Here, although the homeowner hired Quick Mailboxes, there is no indication that she did so negligently. Even though Quick Mailboxes is a small corporation, there is no requirement that people should hire large corporations to complete jobs. Additionally,

the homeowner had no control over how the mailbox was fixed. In fact, the homeowner stated, "I don't care how you fix it; I just want it done by the end of the week."

Thus, the homeowner should not be liable to neighbor because she hired Quick Mailboxes.

4a. Whether the neighbor can recover the cost to repair the car even though the repairs were unusually expensive.

Under the restatement of torts, a defendant is liable for all foreseeable damages resulting from their conduct. The cost of the damages themselves do not have to be foreseeable, just the damage in general.

Here, as discussed above, it was foreseeable for the truck to injure someone's person or property when it rolled down the hilly street when it wasn't placed in park. Even though the damages were unusually expensive, it is not the cost of damages that have to be foreseeable. The entire $55,000 should be recovered by the neighbor if Jane and/or Quick Mailboxes is found liable because the damage to the neighbor's vehicle was foreseeable itself.

4b. Whether the neighbor can recover damages for emotional harm.

Under the restatement of torts a person can recover damages for emotional harm that result from a physical injury to their person, not to property.

Here, the emotional harm that occurred was a result of property damage rather than physical harm. The neighbor looked out his window to see his car of sentimental value to be damaged. However, he himself was not injured physically that resulted in the emotional harm.

Thus, the neighbor cannot recover for emotional harm.

Under the restatement of torts, a person may recover for negligent infliction of emotional distress in two separate scenarios: (i) bystander and (ii) near miss.

i. Bystander

Under the restatement of torts, to recover as a bystander for negligent infliction of emotional distress, the injured party must have been related to the plaintiff, the

plaintiff must have contemporaneously witnessed the event, and the plaintiff must have suffered emotional distress that led to physical symptoms.

Here, the injured party was a car which is unrelated to the neighbor. Even though the neighbor witnessed the event as he saw it while he was looking out his window and he suffered physical symptoms that he is receiving medical treatment for, he cannot recover under this theory because the car is not closely related to him.

Thus, the neighbor cannot recover for negligent infliction of emotional distress based on bystander liability.

ii. Near Miss

Under the restatement of torts, to recover under the near miss scenario, the plaintiff must have been in the zone of danger and suffered physical symptoms.

Here, the neighbor suffered physical symptoms but he was not within the zone of danger because he was inside his home at the time the pole hit the car. Even though he saw the accident occur, he was not near it enough to be considered within the zone of danger and have a near miss situation.

Thus, the neighbor may not recover under the near miss scenario to negligent infliction of emotional distress.

Thus, the neighbor may not recover for his emotional distress.

Question MEE 6 – July 2025 – Selected Answer 2

1. Is Jane directly liable to Neighbor in a negligence action?

The issue presented is whether Neighbor can establish the elements of negligence.

In order to prevail on a negligence action, a claimant must show (1) that the defendant owed them a duty of care, (2) that the defendant breached their duty of care, (3) that their breach was the actual and proximate cause of their damages, and (4) that property or physical injury resulted.

A defendant owes all potential plaintiffs a duty of care to act in the way an ordinary reasonable person would under similar circumstances. The hypothetical reasonable person is presumed to have all information reasonably available, and is not limited to

match the defendant's actual knowledge or mental ability. Failure to meet this duty satisfies the breach element of negligence. This breach is the actual cause of the plaintiff's damages if, but for the defendant's breach, the injury would not have occurred. The breach is also the proximate cause of the plaintiff's damages if the resulting damage was reasonably foreseeable, and no unforeseeable superseding causes arose that caused the plaintiff's injury.

Here, Neighbor can establish all the elements of a negligence action against Jane. First, Jane owed Neighbor and other residents along the street a duty to operate her vehicle in the way an ordinary reasonable person would under the circumstances. This standard would take into account knowledge of the hilly road, because based on the facts it was apparent that the road Jane parked on had an incline; thus, the conduct of a reasonable person would take the incline into account.

Next, Jane breached this duty by failing to take the reasonably necessary steps - putting the truck in park and applying the parking brake - and satisfy the applicable standard of care. This failure was the factual cause of Neighbor's damages because, but for her failure to put the car in park, the truck would not have rolled down the hill and knocked the sign onto Neighbor's car. This failure was also the proximate cause of Neighbor's damages; because Neighbor's property was further down the hill, he was a foreseeable victim of Jane's negligence, and there were no unnatural or unexpected superseding causes that contributed to the resulting damage. The only potential intervening cause was the street sign collapsing, but it is foreseeable that a street sign might break if a vehicle rolled into it.

Lastly, Neighbor's vehicle was damaged as a result of Jane's negligence, and had to be repaired. Thus, Neighbor can show actual damages.

Because Neighbor can demonstrate all elements of a negligence claim against Jane, Jane is directly liable to Neighbor.

2. Is Quick Mailboxes directly or vicariously liable to Neighbor?

The issue presented is whether Quick Mailboxes negligently hired Jane, or in the alternative if Jane's negligence occurred in the scope of her employment.

An employer is directly liable for their worker's conduct if they have negligently hired them, such as by failing to perform a background check or examine their qualifications, or if they have negligently failed to train them.

An employer is also vicariously liable for their worker's conduct if the worker is an employee, and the negligent conduct was within the scope of the employee's employment. A worker is an employee, as opposed to an independent contractor, if the employer has the authority to control the manner of the employee's work. Courts consider whether the employer provides facilities, tools, and training for the employee, if the employee is paid hourly or by the job, and how the parties characterize the employment relationship, among other factors.

The employee's conduct is within the scope of employment if it was performed "on the job" and primarily for the benefit of the employer; minor deviations from the employee's authorized task are not sufficient to remove conduct from the scope of employment, while substantial "frolics" are.

Here, Quick Mailboxes is not directly liable for Jane's conduct because Quick Mailboxes did not negligently hire or train her. The facts indicate that Quick Mailboxes performed background checks and license checks for all drivers, and trains drivers further if needed. There is no evidence provided that the training provided was deficient. Thus, Quick Mailboxes is not directly liable.

However, Quick Mailboxes is vicariously liable for Jane's conduct because Jane is an employee and the accident occurred within the scope of her employment. The facts indicate that Jane is considered a part-time employee by Quick Mailboxes, suggesting that she is an employee; if this factor were not determinative, the fact that Jane is using Quick Mailboxes's vehicle, performs hourly work, and is trained by Quick Mailboxes further supports a finding that she is an employee.

The accident also occurred in the scope of her employment because, at the time, Jane was performing a job for Quick Mailboxes. While she failed to engage the brakes because she was distracted by a personal call, this deviation from her work was only for 3 minutes and thus minor; the accident still occurred within the scope of her employment. In addition, the trip to Homeowner was performed for Quick Mailboxes's benefit rather than her own, and was performed while "on the job" for Quick Mailboxes. These facts all indicate that the accident occurred within the scope of her employment.

In conclusion, Quick Mailboxes is vicariously liable to Neighbor, but not directly liable.

3. Is Homeowner liable to Neighbor because Homeowner hired Quick Mailboxes?

The issue presented is whether Quick Mailboxes is an agent of Homeowner that makes Homeowner liable.

As discussed above, an employer is liable for their worker's conduct when they are able to control the employer's conduct. If the employer does not control the manner in which a worker conducts their work, the worker is an independent contractor and the employer is not liable for their negligence.

Here, Quick Mailboxes is at most an independent contractor of Homeowner. Homeowner hired Quick Mailboxes to repair his mailbox, and expressed no interest in "how [they] fix it." This indicates that he did not intend to control the manner in which Quick Mailboxes performed their work. Because Quick Mailboxes is at most an independent contractor as to Homeowner, Homeowner is not liable for their negligence. (Homeowner is also not liable for failing to intervene when the truck began rolling - nothing could have been done in the few seconds before the accident, and parties have no general duty to intervene).

In conclusion, Homeowner is not liable to Neighbor based on his employment of Quick Mailboxes.

4a. Assuming any parties are liable, can Neighbor recover the cost to repair the car even though they were unusually expensive?

The issue presented is how damages are calculated in a negligence action.

In a negligence action, a defendant must take the plaintiff as he finds them. A defendant's liability is not reduced because a plaintiff is unusually sensitive, or because their negligence causes more damage than would normally be expected. So long as any damage is foreseeable, the extent of damage does not limit defendant's liability.

Here, as discussed above, defendant's negligence caused the damage to Neighbor's car. The fact that the car was unusually expensive or required specialty parts is not considered when evaluating the extent of liability; the defendant's are liable for all foreseeable damages that result from their negligence, regardless of their severity.

In conclusion, Neighbor can recover the full cost of repair for his car.

4b. Assuming any parties are liable, can neighbor recover damages for emotional harm?

The issue presented is whether Neighbor can recover for emotional harm.

Normally, a defendant is able to recover the actual damages they suffered, including physical harm and property damage. However, a defendant normally cannot recover for solely emotional harm unless they bring an emotional infliction of emotional distress claim. Such a claim would require the plaintiff to be within the zone of physical harm created by the defendant's negligence, or observe a close relative be injured by their negligence.

Here, neither of the above are true. Neighbor was not in the zone of physical danger because he was inside his home, not out on the street where the truck was rolling. Neighbor also observed only a car be damaged, not a close relative, and thus can't recover on a bystander theory either. Without bringing a negligent infliction of emotional distress claim, Neighbor cannot recover for the emotional harm caused by the defendant's negligence.

In conclusion, Neighbor cannot recover damages for emotional harm.

Question MEE 6 – July 2025 – Selected Answer 3

1. The Issue is Whether Jane is Directly Liable to Neighbor in a Negligence Action

A tortfeasor may be held directly liable for negligence if they breached a duty that was owed, and that breach caused harm to another.

One owes a duty to foreseeable plaintiffs. One breaches that duty when one fails to act with the appropriate standard of care, typically that of a reasonably prudent person.

One is the cause of the harm if they are both the factual and proximate cause of the harm. One is the factual cause of the harm if they are a substantial factor in the harm arising, or said differently, if but for the tortfeasor's action the harm would not have occurred. One is the proximate cause of the harm if the harm was foreseeable from the breach. Proximate causation may be severed if a superseding event occurs that was unforeseeable. However, foreseeable intervening events will not sever the causal chain.

Here, Jane owed a duty to the neighbor. When she arrived at the house by car she had a duty to control the vehicle in the manner that a reasonably prudent person would

have. Further, she breached this duty when she failed to do so and failed to engage the parking brake or place the car in park.

Further, Jane was the cause of the harm to neighbor. Here, Jane was a factual cause, as but for her arriving on the scene and failing to engage the parking brake or put the truck in park the accident would not have occured. Further, she is also the proximate cause as it is foreseeable that if one does not put a vehicle into park or engage the parking brake it will continue in motion and collide with something. Despite the fact that the actual collision occurred because the truck hit a street sign and then hit the car. These are all foreseeable intervening causes. Lastly, the neighbor suffered damages when their vintage car was damaged.

For these reasons Jane is directly liable to neighbor for negligence.

2a. The Issue is Whether Quick Mailboxes is Liable to the Neighbor Directly

An employer may be directly liable for their employee's negligence when they are negligent in hiring or training their employees. An employer is negligent in doing so if they do not take steps that a reasonably prudent employer would do to vet their employees or train them further once hired.

Here, Quick Mailbox did not negligently hire Jane. Their hiring process includes background checks and drivers license checks. These are all reasonable actions that an employer would take given that their employees would visit client's homes and drive their in company vehicles. Further, the facts state that the employees are trained as needed. Lastly, the kind of negligence that arose was not one that an employer would need to train an employee on. It is common knowledge that before exiting a vehicle one should put the vehicle in park or engage the emergency brake so that it does not move further.

For these reasons Quick Mailboxes is not liable to the neighbor directly.

2b. The Issue is Whether Quick Mailboxes is Liable to the Neighbor Vicariously

A business may be found liable for negligence vicariously for the negligence of their employees through the doctrine of respondeat superior. Here, the employer is liable when the employee is acting within the course and scope of their employment. Courts look at the time, place, and manner of the actions to determine if the employee is acting within the course and scope. An employee acts outside of the scope of their employment when they take a frolic away from their work; however, if they take a

mere detour then they have not left the course and scope of their employment and the employer may be held liable.

As stated above tortfeasors owe a duty to foreseeable plaintiffs. Here, it was foreseeable that property and people near Jane's truck were at risk of damage if there was a collision. Further, Jane breached her duty of care when she failed to engage the parking brake or shift the truck into park as those are the actions that a reasonable person would have taken.

Further Jane is the cause of the accident. Jane is the factual cause because but for her failing to engage the parking brake or shift the car into park this would not have occurred. She is the proximate cause because her negligence is foreseeable.

Jane arrived at the homeowner's home to repair the mailbox in the company owned pickup truck. When she arrived she took a 3 minute personal call. While the call was not for the benefit of her employer, the fact that it was short likely makes it a mere detour instead of a full frolic as a frolic would have required a more substantial interference with her work duties. Because of this Jane was still acting within the scope of her employment when she negligently failed to put the truck in park or engage the parking brake.

Because Jane will still acting within the scope of her employment when she negligently failed to secure the truck Quick Mailboxes may be held vicariously liable for her negligence.

3. The Issue is Whether the Homeowner is Liable to the Neighbor Vicariously Due to Hiring Quick Mailboxes

While a principal may be held liable for the negligence of their agents, they are typically not held liable for the negligence of independent contractors. A party is an independent contractor when they are given wide latitude to determine how to complete their job as opposed to an employee that is directly managed by an employer. Common factors for determining if one was an independent contractor include retaining control over how work is performed, being paid by the job not the hour, owning or bringing one's own tools, lacking predetermined stop and end times, and general lack of management by the employer. When a party is an independent contractor the principal is only liable if they retain management or control over the independent contractor, if the contractor is engaged in an inherently dangerous activity, or if the duty owed by the principal was nondelegable.

Here, Quick Mailboxes was an independent contractor of homeowner and thus neighbor may not hold homeowner vicariously liable. When homeowner hired Quick Mailboxes they laid out the terms of the employment very broadly, stating that they did not care how the work was performed, only that it be completed by the end of the week. Further, the homeowner did not provide tools or retain any kind of care or control over the Quick Mailboxes employee. Thus, the only avenue to hold homeowner liable would be if Quick Mailboxes was engaged in an inherently dangerous activity or if the duty owed was non-delegable, neither of which are implicated here. The work done was not inherently dangerous as it was routine, common within the community, and any dangers can be mitigated with due care. Further, there was no non-delegable duty implicated.

However, homeowner might be liable for failing to take action to get Jane to stop the vehicle. While one generally does not owe a duty to act that duty may arise when a special relationship exists between parties. Here, the homeowner might have had a duty to warn Jane that the truck was rolling down the street so she could prevent the collision. However, this theory is unlikely to succeed as the homeowner still owed no duty to the neighbor to act, and given the short time frame between the homeowner seeing it and the collision occurring little could have been done making it less reasonable to impose a duty on homeowner.

For these reasons neighbor may not hold homeowner liable for hiring Quick Mailboxes.

4a. The Issue is Whether the Neighbor May Recover the Cost to Repair the Car Even Thought the Expenses Were Unusually High

If a party is found liable for negligence the plaintiff may recover all of their damages that were caused by the tortfeasor. While the harm must be foreseeable the extent of the harm does not need to be. Under the eggshell skull plaintiff rule a tortfeasor is liable for the whole of the damages to the plaintiff regardless of their foreseeability.

Here, the damage to the vehicle was foreseeable. As such, the plaintiff is entitled to recover all of their damages from the breach. Despite the fact that the car was particularly rare and special parts were needed the tortfeasor may be held liable for the full extent of the damages.

For these reasons the neighbor can recover the cost to repair the car despite the repairs being unusually expensive.

4b. The Issue is Whether the Neighbor May Recover Emotional Harm Damages

The recovery of emotional damages is generally limited to cases where the plaintiff has suffered physical injury, and that physical injury causes emotional harm. A plaintiff may recover emotional damages under negligent infliction of emotional distress (NIED) when they were in the zone of danger or they observed a loved one be seriously injured by the negligence of the tortfeasor.

Here, the plaintiff suffered emotional harm because he had looked out the window at the sign falling and damaging his car. This is not actionable as he suffered a purely economic loss. Further, the neighbor may not recover under either theory of NIED as he was inside his home well away from the zone of danger which was out on the street. Further, the damage was to a piece of property, not to a loved one, as such even though he personally observed the accident he may not recover.

For these reasons the neighbor is not entitled to recover damages for his emotional harm.