

Integrated Question Set

Question 1

You are a new associate in a medium-sized law firm specializing in general civil litigation. Your supervising attorney hands you a client intake form for Patty Williams, a new prospective client that the administrative assistant just scheduled for an interview later in the week.

Your supervising attorney asks you to review the client intake form and complete some preliminary research before the client's interview. Based on the information contained in the intake form, which of the following legal issues do you want to research further in relation to the attorney's misconduct? **Select one.**

- (A) Trespass to chattels
- (B) Negligence
- (C) Intentional infliction of emotional distress
- (D) Assault
- (E) Battery
- (F) False imprisonment

Definitions:

Trespass to chattels – 1) an act by defendant that interferes with plaintiff's right of possession in a chattel; 2) intent; 3) causation; and 4) damages.

Negligence – 1) a duty on the part of defendant to conform to a specific standard of conduct for protection of plaintiff against an unreasonable risk of injury; 2) breach of that duty by defendant; 3) the breach is the actual and proximate cause of plaintiff's injury; and 4) damage.

Intentional infliction of emotional distress – 1) an act by defendant amounting to extreme and outrageous conduct; 2) intent or recklessness; 3) causation; and 4) damages – severe emotional distress.

Assault – 1) an act by defendant creating a reasonable apprehension in plaintiff; 2) of immediate harmful or offensive contact to plaintiff's person; 3) intent; and 4) causation.

Battery – 1) intentional; 2) harmful or offensive contact; 3) to plaintiff's person; 4) and causation.

False imprisonment – 1) an intentional; 2) act or omission on the part of the defendant that confines or restrains plaintiff to a bounded area; and 3) causation.

Question 2

You remember from your torts class that the rule for Intentional Infliction of Emotional Distress states that the following elements must be proved: 1) an act by defendant amounting to extreme and outrageous conduct; 2) intent on the part of the defendant to cause plaintiff to suffer severe emotional distress, or recklessness as to the effect of defendant's conduct; 3) causation; and 4) damages – severe emotional distress.

Your supervising attorney asks you to conduct further research to identify the meaning of “extreme and outrageous conduct,” and points you toward the following cases: *Perrone v. Rogers* (2017); *Sullivan v. Malta Park* (2014); and *Ulmer v. Frisard* (1997). You found these three cases and reviewed the cases for the upcoming meeting with the client.

After reading the cases, you have determined that, in order to satisfy the “extreme and outrageous conduct” element of intentional infliction of emotional distress, the conduct in question must go beyond all possible bounds of decency and be regarded as atrocious and utterly intolerable in a civilized society. There are four main categories of conduct that is considered “extreme and outrageous”:

- (1) Abusing a position of power;
- (2) Emotionally harming a plaintiff known to be especially vulnerable;
- (3) Repeating or continuing conduct that may be tolerable when committed once, but becomes intolerable when committed numerous times; and
- (4) Committing or threatening violence or serious economic harm to a person or property in which the plaintiff is known to have a special interest.

Mere insults, indignities, threats, annoyances, petty oppressions, or other trivialities are not enough to trigger liability; rather, persons must necessarily be expected to be hardened to a certain amount of rough language, and to occasional acts that are inconsiderate and unkind. Liability arises only when the mental suffering is extreme.

Your supervising attorney asks for some examples of conduct that is considered “extreme and outrageous.” Based on your understanding of intentional infliction of emotional distress (IIED), which of the following instances of conduct would be considered “extreme and outrageous” for purposes of IIED? **Select all that apply.**

(A) An attorney saw your name listed on the court docket for an arraignment hearing for a burglary charge. The attorney called and left you a voicemail message asking if you need representation, and if so, requesting that you call the attorney back.

(B) Over a five-day period, your law professor called you “stupid,” “dumb,” and a “waste of space in the class.” After the “stupid” comment, you went to the professor and explained that you had been having some personal problems and just started seeing a counselor. You apologized for not being as prepared in class as you should have been. After this discussion, the professor continued to demean you in class every day for the next two weeks.

(C) You filed a pro se civil suit against your former landlord for failing to repay your security deposit. Over the past week, Attorney Jones called you five times per day asking if you need representation in your civil suit. Attorney Jones also emailed you 10 times over the past five days.

(D) You have called out of work several times, giving less than an hour’s notice each time. The last time you called out, your boss warned that you would be terminated if it happened again. After a late night out, you called your boss 20 minutes before your shift and said you were not coming to work. Your boss responded, “If you’re not here in the next 30 minutes, you’re fired.”

(E) You gave birth to a baby boy on Monday after an incredibly difficult pregnancy and labor. On Tuesday, your mother-in-law demanded to know when you expect to get pregnant again because she wants a granddaughter.

(F) Your law school professor cold-called you on the first day of class, expecting you to be able to fully brief a difficult case. When you fumbled the facts, the professor said, in front of the entire class, “Oh, never mind, I guess you didn’t do the reading,” and then called on another student.

(G) You went to the grocery store and a person approached you for money. You responded that you did not have any cash on you. The person yelled, “Liar!” in a loud voice, which was heard by at least two other people in the parking lot.