

**Review session**

## Question1:

Xander owns and runs a large medical research facility (XandCorp, a publically traded entity) which as part of its work tests pharmaceuticals on rats. This makes both the organisation and Xander unpopular with a number of animal rights campaigners.

Willow is an animal rights campaigner. Whilst she is running errands in town she sees Xander and recognises him. In a fit of rage she screams at him "Murderer! Destroyer of tiny fluffy lives!" A number of people hear this outburst.

Willow writes for a large national newspaper, and decides to write an article about XandCorp. In it, she asserts that Xander is engaging in widespread embezzlement within the company, taking money from the pension fund. This is untrue, having been invented by Willow.

Finally, she writes another article for an online blog, stating that under Xander's leadership, XandCorp has been given a 'C-' rating during its last animal welfare inspection. This is an honest mistake: XandCorp was actually given a C+. This information has already been published on the rating body's website.

## **ANSWER:**

### **First event: Scream by Willow at Xander “Murderer! Destroyer of tiny fluffy lives!”**

- Those words may constitute the tort of **Intentional Infliction of Emotional Distress** if Xander proves an extreme and outrageous conduct resulting in severe emotional distress to him by Willow. However, his chance to convince the judge with this type of tort is not easy as the facts didn't arise such extreme conduct. So I Advise Willow to not to file a case based on this statement.
- Those words didn't match the conditions of defamation as this statement didn't include a fact but only a **negative statement**. So I Advise Willow to not to file a case based on this statement.

### **Second Event: Willow 's article about Xander's false embezzlement within the company**

- This article presents a case of **libel defamation** and **actual malice** as willow's article include a false fact about Xander corporation communicated to third Party by willow who invented the whole story. This case may succeed. I advise Xander to file a case against Willow based on Libel defamation and actual malice and ask the court for Compensatory damages and/or punitive damages.

### Third event: The honest mistake that XandCorp has been given a 'C-' rating during its last animal welfare inspection

- This article present a case of **Negligence** as The tort of negligence occurs when someone suffers injury because of another's failure to live up to a required duty of care, Which is the relevant case when Willow breached her duty to exercise the relevant standard of care to make sure of the information published in her article. So Xander had to prove to the court that this Breach of duty caused him an injury by loss in profits or others to succeed in his case of negligence which require the following elements:  
**Duty , Breach ,Causation ,injury.**
- I advise Xander to file a case against Willow based on Negligence and ask the court for Compensatory damages and/or punitive damages.

## **Question2:**

Kimmy owns a large country house and adjoining estate in the middle of Hampshire.

Her neighbour, Titus is in the process of building a stable for his collection of horses. The builders arrive and unload the bricks for the construction. They have unloaded some of the bricks past the property line, onto Kimmy's property. This is a distant corner of the estate which Kimmy rarely ventures over to.

It emerges that Kimmy's considerable fortune comes from the proceeds of an international drugs smuggling ring. After a protracted police investigation the police arrive to search her property and arrest Kimmy. The police arrive and begin to search the house with a valid warrant.

## **ANSWER:**

**First event: Titus is in the process of building a stable for his collection of horses. The builders have unloaded some of the bricks past the property line, onto Kimmy's property. This is a distant corner of the estate which Kimmy rarely ventures over to.**

- The act of unloading bricks past the property of Kimmy constitutes **a trespass** against Kimmy's land however she rarely ventures over it as long as this was without her consent.
- I advise Kimmy to file a case against the builders and Titus based on trespass against her land and ask the court for Compensatory damages and/or punitive damages.

**Second Event: the police arrive to search her property and arrest Kimmy. The police arrive and begin to search the house with a valid warrant.**

- The search of the property by the police is a legal act not a trespass as he had a valid warrant.

Kimmy is kept in the dining room of her house, and despite telling the police to get out, they refuse to leave. Two police officers are in the process of searching her house when they come across an ornate vase. One of the officers picks it up to search the inside for drugs. After he has finished searching he decides to prank the other officer. He throws the vase at him and yells 'catch!' The officer does not catch the vase which falls to the ground and shatters

**Third event: Kimmy is kept in the dining room of her house, and despite telling the police to get out, they refuse to leave. She asks why she isn't allowed to leave the dining room but the officer stays silent**

- This act by the police is a tort of False Imprisonment as the police didn't justify the detention to Kimmy. I advise her to file a case against the police for false imprisonment and ask the court for Compensatory damages and/or punitive damages.

**Fourth Event: Two police officers are in the process of searching her house when they come across an ornate vase. One of the officers picks it up to search the inside for drugs. After he has finished searching he decides to prank the other officer. He throws the vase at him and yells 'catch!' The officer does not catch the vase which falls to the ground and shatters.**

- Using the vase is a trespass to Kimmy's personal property, and wrongfully retaining it is conversion by the police officer who wasn't allowed by Kimmy to use her vase and he breaks it.

I advise her to file a case against the police for trespass of personal property and conversion asking the court for Compensatory damages and/or punitive damages



Kimmy hears the smashing vase and goes to see what the commotion is, the officer guarding her stops her from leaving the dining room. She asks him to move but he refuses. She asks he why she isn't allowed to leave the dining room but he stays silent. Kimmy is arrested an hour later. Despite Kimmy being of small stature and extremely calm, during the process of the arrest the police officer shouts 'stop resisting!' and kicks Kimmy in the back of her knee, leaving her with a bruise.

**Fifth event: during the process of the arrest the police officer shouts 'stop resisting!' and kicks Kimmy in the back of her knee, leaving her with a bruise.**

- \_The police shouting is an assault as it creates in her a reasonable apprehension of harmful contact.
- Kicking Kimmy in the Back is a Battery as it is a harmful and offensive physical contact intentionally performed by the police officer .
- I advise her to file a case against the police for assault and battery asking the court for Compensatory damages and/or punitive damages

### **Question3:**

Toby is a footballer who plays for Leicester City F.C.

One day, he is out in the supermarket buying alcohol for a party he will be holding that evening. He loads his basket with bottles of vodka, and goes to pay. Whilst at the till, his photo is taken by a member of the paparazzi who regularly follows him. A photo is also taken by someone else at the supermarket, which soon makes the rounds on Twitter and Facebook.

The photo is published a day later by a tabloid newspaper - The Star, along with the headline 'Tipple-Loving Toby Stocks Up!'. It is well known that Toby enjoys a drink, having been photographed falling in and out of various clubs in the local area.

**First event: He loads his basket with bottles of vodka, and goes to pay. Whilst at the till, his photo is taken by a member of the paparazzi who regularly follows him. A photo is also taken by someone else at the supermarket, which soon makes the rounds on Twitter and Facebook. The photo is published a day later by a tabloid newspaper**

- Generally, to successfully sue for an invasion of privacy, a person must have a reasonable expectation of privacy, and the invasion must be highly offensive. So it seems that shopping in public didn't let him to expect a reasonable privacy. Also taking photo to him while shopping bottles of Vodka didn't seem to be an offensive invasion of his privacy as it is known that Toby enjoys drinking and he is falling in and out of various clubs in the local area.
- I advise Toby to not to file a case concerning the mentioned facts as the judge wouldn't be convinced of any invasion of his privacy in the present case.

**Second Event: The next week, the same photographer makes the journey out to Toby's country estate. He climbs a fence and hides in the bushes until he sees something of interest**

- This act by the photographer is a trespass to Toby's land. Toby can sue him based on this type of torts against property asking the court for Compensatory damages and/or punitive damages.

The next week, the same photographer makes the journey out to Toby's country estate. He climbs a fence and hides in the bushes until he sees something of interest. Using a long-range telephoto lens, he is able to snap the football player in a compromising position with a famous model. Both Toby and the model are married to different people. The photographer then trips a security system, and is captured by a camera. Toby recognises the paparazzo from the CCTV images, and quickly approaches the courts for an injunction, to stop the photo from being run in the press.

- Those photos constitute the evidence of the **tort of invasion of privacy** by the act of Public disclosure of private facts as it was published on CCTV and being in his House Toby is **expecting his total privacy** and the **invasion** by the photographer is **highly offensive to Toby** as he was in compromising position with a famous model. Both Toby and the model are married to different people.
- **I advise Toby to** sue the photographer based on the invasion of his privacy by the act of Public disclosure of private Facts asking the court for Compensatory damages and/or punitive damages.

# Case

- A issued a check for B . B signed on the Back of the check and adding the words “Without recourse” and delivered it to C. C signs on the Back adding the name of D.
  1. Who is the current beneficiary of the Check?
  2. If the Bank dishonors the check for no Credit who will be liable for Payment?



# Answer

- Final beneficiary is D
- Only A & C are liable to pay.

# Advise HSBC

- Mr. Bill chairman of ABC corporation issued a crossed check in order of his client Mr. Jones for an amount of 10000\$. Mr. Jones endorsed it to Mr. Lee who presented it to HSBC bank who accepts payment on the counter.

# Answer

- As it was a crossed Check and HSBC bank accepted payment on the counter, HSBC will be liable **to the drawer Mr. Bill and to the holder of the check Mr Lee for any loss for any loss.**

# What do you think?

- GG is a restaurant that becomes a nightclub after certain hours. At those times, as the manager of GG's knew, the staff and customers traditionally threw paper napkins into the air as the music played. The napkins landed on the floor, but no one picked them up. One night, A went to GG's. She had been to the club on prior occasions and knew about the napkin-throwing tradition. Not long after arriving, A slipped and fell, breaking her leg. She required surgery and three months of recovery in a wheelchair. She sued GG's for negligence.

# Answer

- The court held that the obviousness of a risk( the risk of slipping on the napkins was obvious )does not discharge a business owner's duty to maintain the premises in a safe condition although it does discharge the duty to warn.