Professor Wang 140. Torts

NAME Joseph Salamy Exercise 1

Please answer the following questions about the first assigned case, *Hammontree v. Jenner* (Casebook 3-6), on this paper, using the spaces provided. Please put your name on the paper and post it to the BruinLearn folder before class on Aug. 27.

1. Who initiated the lawsuit in the case? That is, who is the plaintiff?

The plaintiffs are Maxine Hammontree and her husband.

2. Who is being sued? That is, who is the defendant?

The defendant is Thoms H. Jenner.

3. What remedy is the plaintiff seeking? That is, what does the plaintiff want to get out of the lawsuit?

The plaintiffs want compensation for personal injuries and property damage arising out of an automobile accident.

4. What facts did the jury have to find were true in the trial court in order to find Jenner not liable?

The jury had to believe that the driver acted reasonably given his medical history. He was suddenly struck by an illness or physical condition which he had no reason whatever to anticipate and of which he had no prior knowledge. He disclosed his condition to his doctor and the DMV, took his prescribed medication, and followed his doctor’s advice. He had no reason to believe he would suffer a seizure while driving.

5. What is the basis for the plaintiffs' appeal from the trial court judgment? That is, what do the plaintiffs think the trial court did wrong during the trial?

The plaintiff appeals on the basis that the trial court committed prejudicial error in refusing to give their jury instruction on absolute liability. Appellants seek to have the court impose strict liability on drivers affected by physical conditions which could suddenly render them unconscious and who are aware of that condition, drawing comparison to manufacturers who produce items that cause injury.

6. What do the plaintiffs, who are also the appellants (parties who initiated the appeal) want the appellate court to do for them?

They want a petition for a hearing by the Supreme Court of California.

7. After the litigation is over, who has to pay for the damage caused by Mr. Jenner?

Mr. Jenner has to pay for his own damages, presumably through his insurance.

8. What aspect of the case do you find most difficult to understand?

I found the narrative-like nature of the case most difficult to understand. It seemed to ebb and flow, as opposed to clearly laying out what the arguments and ruling are.