

QUESTION 15 THE ANSWER TO THIS QUESTION SHOULD GO IN BLUEBOOK V

Paula Plaintiff was walking on a sidewalk with Fluffy, her beloved Chihuahua. Paula stopped at a hot dog stand, purchased a hotdog and put a large number of catsup packets in the pocket of her shorts for later use. As Paula was walking Fluffy, a bike rider crashed into them, causing Paula to fall on the sidewalk. Paula started crying hysterically once she saw her blood covered leg. Meanwhile, a few feet away Fluffy was struggling to free her hind legs, which were entangled in the bike spokes.

Dan Defendant, a passerby who happened to be a registered nurse at a nearby hospital, heard Paula's cries for help. As Dan approached Paula, she said "Sir, my leg is cut and I am bleeding badly, but first check on my precious Fluffy, whose legs are caught in the bike spokes and might break." Dan looked at Fluffy, and then at Paula's leg, and said "I am not worried about a dog, I am only concerned about you." After wiping the blood from Paula's leg, Dan discovered only a small cut. The "blood" on her leg was mostly catsup that had leaked from the packets in her pocket. Realizing this, Dan simply wiped off the cut, tied a cloth around it, and left. As he was leaving, Paula offered Dan her hot dog as compensation and again asked him to help Fluffy, who was still struggling in the spokes. Dan refused to accept the hot dog or to render Fluffy aid.

Paula's cut became badly infected and Fluffy broke two legs from twisting in the spokes. Paula sued Dan, alleging that he was negligent when he failed to (1) properly address her cut and (2) provide assistance to Fluffy. In regard to Fluffy, Paula only seeks to recover the emotional damages she suffered as a result of seeing Fluffy in pain and ending up with broken legs.

Dan asserts that his treatment of Paula is entitled to immunity and that Paula cannot recover emotional distress damages for seeing what occurred to Fluffy. Should Dan succeed on these grounds? Explain your answer.

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