

A mother and her six-year-old child were on a walk when the mother stopped to talk with an elderly neighbor. Because the child resented having his mother's attention diverted by the neighbor, the child angrily threw himself against the neighbor and knocked her to the ground. The neighbor suffered a broken wrist as a result of the fall.

In an action for battery by the neighbor against the child, what is the strongest argument for liability?

- A. The child intended to throw himself against the neighbor.
- B. The child was not justified in his anger.
- C. The child was old enough to appreciate that causing a fall could inflict serious injury.
- D. The child was old enough to appreciate the riskiness of his conduct.

Explanation:

Tort liability of minor children

Intentional tort Liable if child was capable of forming requisite intent

Negligence Liable if child failed to act as reasonable child of similar age, intelligence, & experience would have acted under similar circumstances

Battery requires that the defendant:

intend to inflict harmful or offensive contact (or imminent apprehension thereof) *and* cause harmful or offensive contact with the plaintiff.

Age is not a defense to intentional tort liability. Instead, a child's level of **maturity** is considered when determining whether he/she is capable of **forming the requisite intent**. Therefore, a child is liable for battery when the above elements are met, regardless of whether the child is old enough to appreciate the riskiness or consequences of his/her conduct **(Choices C & D)**.

Here, the strongest argument for liability is that the six-year-old child was mature enough to understand that he would cause harmful or offensive contact with the neighbor when he angrily threw himself against her. And since his intentional contact caused the neighbor to fall and break her wrist, the child is liable for battery.

(Choice B) Although **justification** (eg, consent, self-defense) is a defense to battery, anger is never a valid justification.

Educational Objective:

Battery requires the intent to inflict harmful or offensive contact (or imminent apprehension thereof). If a child is capable of forming that intent, the child may be held liable for battery.

References

Restatement (Third) of Torts § 1 (Am. Law Inst. 2010) (definition of intent).

Restatement (Second) of Torts § 13 (Am. Law Inst. 1965) (battery by harmful contact).

Restatement (Second) of Torts § 895I (Am. Law Inst. 1979) (tort liability for children).

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