

A motivational speaker walked onto a stage to perform before a sold-out crowd. As he was about to sit on a stool located center stage, a stagehand decided, as a practical joke, to pull the stool from beneath the speaker. This caused the speaker to fall backwards, and the crowd erupted with laughter. The speaker was highly embarrassed but did not sustain any physical injuries.

The speaker has asserted a battery claim against the stagehand.

Is the speaker likely to prevail on his claim?

- A. No, because the speaker did not suffer any physical harm.
- B. No, because the stagehand only intended to pull a practical joke on the speaker.
- C. Yes, because the stagehand acted negligently.
- D. Yes, because the stagehand knew that the speaker was about to sit on the stool.

Explanation:

Battery occurs when a defendant intends to inflict harmful or offensive contact (or create the imminent apprehension thereof) AND causes such contact with the plaintiff. The **intent** requirement is met if the defendant acts with either:

purpose – the desire to cause harmful / offensive contact or imminent apprehension thereof *or*

knowledge – the substantial certainty that such contact or apprehension will result.

Contact is **harmful** if it causes physical impairment, pain, or illness. Contact is **offensive** if it would offend a reasonable person's sense of dignity.

Here, the stagehand *knew* that the speaker would fall to the ground (intent) because the stagehand saw that the speaker was about to sit when the stagehand pulled the stool out from under him. Since this intentional act caused the speaker to suffer an embarrassing fall (offensive contact), the speaker will likely prevail on his battery claim.

(Choice A) A plaintiff need not suffer physical harm to recover for battery. That is because a battery can also occur if the defendant causes *offensive* contact (as seen here).

(Choice B) The stagehand may have only acted with the desire to pull a practical joke on the speaker. But since the stagehand was substantially certain that harmful or offensive contact would result from pulling the stool out from under the speaker, the stagehand still acted with the requisite intent for battery.

(Choice C) Battery requires proof that the defendant acted intentionally—not *negligently* (ie, failing to act as a reasonable person would have acted under similar circumstances).

Educational objective:

For battery, intent exists when the defendant acts with the purpose (desire) or knowledge (substantial certainty) that harmful or offensive contact, or the imminent apprehension thereof, will result.

References

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

Restatement (Second) of Torts § 18 (Am. Law Inst. 1965) (battery by offensive contact).

Restatement (Second) of Torts § 19 (Am. Law Inst. 1965) (definition of offensive contact).

Garratt v. Dailey, 279 P.2d 1091, 1094 (Wash. 1955) (explaining that battery requires an intent to cause contact that results in harmful or offensive contact).

Two types of intent

