

A school bus driver reported to a middle school principal that a student had harassed other children on the bus. The principal informed the student's parents of the bus driver's report and told them that, because of the student's behavior, the student could not ride the bus for the next week and would have to be driven to school by a parent.

The following Monday morning, after the bus driver had let the children off the bus in front of the school, but before she could close the door and drive away, the student's father pulled his car directly in front of her bus, blocking the driver's path. Because there was another bus right behind hers, the driver was unable to move her bus.

The father got out of his car and strode toward the open door of the bus, screaming at the driver: "You messed with the wrong family! I am going to get you!" Feeling threatened, the bus driver quickly closed the door. The father pounded on the door with enough force to dent it, screaming obscenities at the driver, until a school security guard intervened.

If the driver were to sue the father, which cause of action would give her the best chance of recovery?

- A. Assault.
- B. Battery.
- C. Intentional infliction of emotional distress.
- D. Trespass to chattels.

Incorrect

Correct answer A

Collecting Statistics

01 min, 29 secsTime Spent

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## Explanation:

**Assault** is a cause of action that requires proof that the defendant:

intended to inflict harmful or offensive contact OR imminent apprehension of such contact  
*and*

caused the plaintiff reasonable apprehension of imminent contact.

**Apprehension** exists when the plaintiff **reasonably believes** that the defendant's action will cause **imminent contact**. **Words** alone cannot cause reasonable apprehension unless they are **accompanied by action** apparently intended to carry out the threat (eg, threatening gesture).

Here, the father intended to cause the school bus driver imminent apprehension of harmful contact by screaming at her, "I am going to get you!" The father then pounded on the door of the bus with enough force to dent it. Accordingly, the father's threat and actions could cause the driver reasonable apprehension of imminent harmful contact. Therefore, an assault cause of action would give the driver the best chance of recovery.

**(Choice B)** **Battery** requires that the defendant cause harmful or offensive contact with the plaintiff's body or an object intimately associated with the plaintiff's body (eg, clothing). Although the father pounded the bus door, he did not contact the driver's body, and the door is not intimately associated with the driver's body.

**(Choice C)** **Intentional infliction of emotion distress** requires proof that the plaintiff suffered severe emotional distress. Here, there is no indication that the driver suffered such distress, so this cause of action does not give her the best chance of recovery.

**(Choice D)** A defendant is liable for **trespass to chattels** when he/she intentionally interferes with the plaintiff's possession of a chattel. Although the father dented the bus door, it would be difficult for the driver to prove that the father interfered with her possession of the bus. Conversely, the driver can more easily prove that the father committed assault.

## Educational objective:

Assault requires proof that the defendant (1) intended to inflict harmful or offensive contact OR imminent apprehension of such contact and (2) caused the plaintiff reasonable apprehension of imminent contact. Words must be accompanied by a threatening act to cause reasonable apprehension of imminent contact.

## References

Restatement (Second) of Torts § 21 (Am. Law Inst. 1965) (defining assault).

Restatement (Second) of Torts § 31 (Am. Law Inst. 1965) (explaining that words plus actions can cause reasonable apprehension of imminent contact).

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Only words, no act  
=  
No assault

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Words + Act  
=  
Assault