

Problem 6A.

Continuing with the lawsuit against Big Red (Problem 4B):

In problem 4B, plaintiff sued Big Red on a theory of respondeat superior -- an employer is liable for the negligent acts of employees done within the scope of their employment. There is another legal theory that could hold Big Red accountable -- negligent entrustment, under which an employer is liable if their negligent hiring, supervising or retaining of a careless employee caused injury to plaintiff.

At trial, plaintiff offers the following evidence:

A. Testimony from Ashley Miller who says she was in the same sorority as Jane Arden from 2012-2015, and she had a reputation for being a bad and inattentive driver.

B. Testimony from Ashley that she rode with Jane many times and personally believes Jane is a terrible driver.

C. Testimony from Ashley that when she was riding with Jane, she had to ask her on three occasions not to text and drive at the same time.

D. Testimony from Ashley that some guy from Big Red called her for a reference on Jane, and she said Jane was a good honest person but a bad driver.

Think through the arguments for and against the admissibility of this evidence under three scenarios:

1) Big Red is sued only under the respondeat superior theory.

2) Big Red is sued for negligent entrustment.

3) Jane is charged criminally with reckless driving causing serious physical injury, a level 6 felony. Recklessness is defined as "conscious disregard of a risk of substantial harm."

Problem 6B

This is a continuation of State v. Hickman, Problem 3A.

During the defendant's case-in-chief, he called as a witness Father Tom Delaney, pastor of St. Charles Catholic Church. Father Tom testifies that:

- a. Hickman has been a member of the parish for many years
- b. Hickman has been active in the youth sports program as a coach and member of the Athletics Committee.
- c. Hickman has a reputation in the parish as a calm and peaceful coach who never gets angry
- d. Father Tom's personal opinion is that Hickman is a peaceful person.
- e. Father Tom has watched a lot of the youth basketball games Hickman has coached and has never seen him lose his temper.

PART ONE:

Are there any objections the prosecution could make to this testimony?

PART TWO:

Assume the judge allowed Fr. Tom to give this testimony. On cross-examination, the prosecution asks the following questions:

- 1 Isn't it true that two parents filed written complaints with the school principal that Hickman got angry and yelled at their children in practice?
- 2 Isn't it true that four years ago Hickman got angry at a youth baseball umpire and smashed his windshield with a baseball bat after the game?
- 3 Haven't several members of the parish expressed concern to you about why Hickman is allowed to coach when everyone knows he has a bad temper?
- 4 Isn't it true that several parents complained to you that was a problem drinker who should not be allowed to coach youth sports?

Think about the arguments for and against the admissibility of this evidence

Problem 6C

This is a continuation of State v. Waldron and Atkins, Problem 5A.

Waldron has claimed self-defense. She asserts that she is Hamilton's girlfriend and went with him to the victims' home without knowing that he intended to buy a large quantity of cocaine from the victims. At the house, there was an argument about price, and then Natasha pulled out a gun, pointed it at Waldron and started advancing toward her. At that point, Waldron feared for her life and pulled her own gun from her waistband and shot at Natasha in self defense.

- 1 In support of her self-defense claim, Waldron calls a social worker from Centerstone who says she works regularly with Bloomington's homeless population, especially those who have addiction problems, is familiar with the drug trafficking population, and that Natasha Tate had a reputation as a violent person.

In rebuttal, the State calls three witnesses:

- 2 Jed Dempsey testifies that he is often homeless, is addicted to crystal meth, is familiar with the city's population of street addicts and dealers, and that Natasha Tate had a reputation as a peaceful person.
- 3 Cherie Williams says she works at the same South Walnut Street Rallys where Natasha Tate also worked part time, got to know her pretty well, and was of the opinion that Tate was a peaceful and easy-going person.
- 4 Oswald Ford testifies that he often spends time at People's Park, knew Natasha Tate, and had seen her involved in several confrontations in the park concerning the sale of drugs. He has seen people hit her, push her and try to grab drugs away from her several times, and has never seen her react with violence or aggression.

Think about the arguments for and against the admissibility of these four items of evidence.