

Antigone will argue that Creon did in fact make a misstatement through his omission in not providing corporate documents that would have revealed Creon's stake in Xaelang. Even without this revealing of the documents it would probably still be found that Creon acted as a ~~scienter~~. He was acting in the capacity of financial advisor of Antigone. A misrepresentation can be found where a person who has a duty to disclose information fails to do so. Creon seems to meet this criterion. It doesn't matter that Creon acted without malice - no malice is needed.

The other elements of this tort are also met. Antigone will argue successfully that even though he could have asked for the corporate documents which would have told him that Creon had invested he had no duty to investigate. Antigone justifiably relied on the information told to him by Creon and justifiably assumed it was complete.

An issue which Creon might argue against is that the fact that he had a financial stake in the

Company was not a material fact which mattered in Antigone's decision.

Antigone will also prevail on the issue of materiality. Antigone will argue that Creon clearly breached a duty when he advised a client on an investment which he had a stake in and did not reveal this fact.

All of the elements of fraud are met in this case. Creon's omission of the fact that he was an investor was clearly a material fact. Creon presented the potential investment to Antigone because he feared his own pecuniary loss. So he acted at the least with reckless disregard to the truth and certainly acted intending to cause Antigone to rely on his information. Antigone again was justifiable in his reliance because of their relationship.

The only other issue that Creon may be able to argue is that given the facts (that Antigone did not always follow his advice and asked questions before any past investments) did Antigone actually rely on Creon's advice and suffer financial loss because of his reliance.

## Locks v. Man

Locks has two claims of Battery against Man. The battery tort must have intent to make offensive contact and that the contact is made. In the first instance Man strikes Locks and the second case Man tackles Locks and drives her head into the floor. Intent and actual contact are obvious in both cases. Man's defense in both cases should be defense of property and self-defense. Man is allowed to use reasonable force in defense of his property and deadly force in self-defense of his life. Actually, both uses of force, the slap & the tackle and head drive, should be reasonable as Locks was going for a gun and then had possession of a gun, this would put a reasonable man in fear of his life. Both actions for Battery would not hold due to Man's justification of self-defense.

Locks may also have an action for Assault for Man's reaching for the gun. Assault is an act intending offensive contact and reasonable apprehension of the contact. Man intends to take gun away from Locks (intended contact) and Locks has a reasonable apprehension of such contact, and in fact has to move the gun out

#3 (continued)

successful

of the way of Man's reach. Man's defenses would be self-defense again for the same reasons as his self-defense in the battery suits, i.e. in fear of his life due to Lock's trespass and possession of the gun.

(CIA statement)

Man could not use insanity for a defense because his acts of contact and intended contact were voluntary and he mentally entertained them prior to doing them.

### Man v. Locks

Man has several claims against Locks. He has a Trespass to Land, ~~and~~ Assault and 3 separate Batteries.

The trespass to land occurs when, in this case, by physical invasion ~~of~~ into Man's property. The trespass occurred when Locks kicked down the door and entered the home.

The action would include the physical entry and the damage to the door. Lock's defense would

#3

be that of necessity. Locks's defense would hold because she was justified to enter and use force to enter Man's home due to her life being threatened by the bear. Locks may attempt to avoid paying for damage to the door by stating if Man had helped her and let her in, she would not have had to knock the door down. Locks would be liable for the door because Man had no duty to help her, his duty was limited to letting her trespass.

Man has 3 battery claims against ~~Locks~~ Locks.

(1) Locks flips man over her head; (2) Locks shoots Man in the arm and (3) Locks breaks Man's leg. Each of these batteries meet the intent and <sup>earlier</sup> actual contact required elements mentioned<sup>1</sup> in the L v. M claims. Locks's defense to #1 would be necessity to get gun and kill the bear. This defense may hold due to necessity to be able to defend one's life.

Locks's defense to #2 would be a combination of self-defense and necessity. Locks may believe Man is trying to get the gun to kill Locks and she shoots him in defense of her life. Also Locks is still in need of the gun to kill the bear, and out of necessity shoots Man so that the bear

cannot kill her. This defense of self-defense against Man should hold better than the necessity to shoot man in order to kill the bear.

Locks's defense to breaking Man's leg would again be self-defense. Lock is afraid that Man will pursue Locks. This defense is entirely too weak. Man is already unconscious, he won't know which direction Locks went and Man is already wounded by a gunshot and cannot pose much of a continued threat. Locks has the ability to retreat and is not justified in breaking the leg.

Man's claim of Assault against Locks is when she tried to shove him. We don't know that contact was made. & Locks intended the offensive contact of shoving and Man was in apprehension of the shove because he struck Locks in self-defense of the attempted shove. Locks defense would be a combination of necessity and self-defense. Locks needs the gun to kill the bear and save her own life. This defense may hold in that the damage of the assault is far outweighed by the loss of life that will occur ~~without~~ without the gun and the necessary assault to get the gun.

#1

McEnroe<sup>(Mc)</sup> may prevail in an action for battery against Connors (C) for at least the initial 6 intentional shots to the head.

The two elements necessary for battery are intent to make harmful/offensive contact and that the contact is made. In this instance C intends to aim each ball at Mc and is successful in hitting Mc. After the first 5 times, C is warned by Ref. and still commits the battery a 6th time. (where upon C is penalized). The last <sup>(7th)</sup> incident may not support a battery claim because we don't know of C's intent.

C may try the defense of participation in the sport may result in one's getting hit by the ball (consent to be hit). But, although this behavior is not a rule violation, it is a violation for which penalties can be invoked, and are invoked. Therefore liability exists for the violations.

Mc will prevail in the battery tort, especially since C ignored Ref.'s warning and point forfeiture. And C intended the contact and was able to make the contact.

#2. Fraud occurs when one who fraudulently makes a misrepresentation of fact, opinion, intention or law for the purpose of inducing another to act or to refrain from action in reliance upon it, is subject to liability in deceit for pecuniary loss caused to him by his justifiable reliance upon the misrepresentation.

Creon will argue that Antigone does not have an actionable claim for fraud with regard to the Unilang investment loss. Creon will argue that he did not ~~expressly~~ misrepresent any fact, opinion or intention. He will argue that he did not act as a ~~requisite~~ scienter because he did not misrepresent anything. He will argue that he told Antigone all of the potential risks of the investment as well as the potential merits. This argument will not prevail because of the special relationship between Creon and Antigone. Creon was acting as financial advisor at the time he made the statements about Unilang. He intentionally induced Antigone's justifiable reliance.