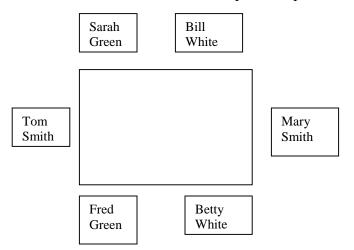
Intentional Torts Mid-Term Examination

The Smiths were giving a dinner & party. Mary Smith was a superb hostess, but she always was highly nervous for several days beforehand as she agonized over all the arrangements.

Consequently, she had spoken quite sharply to her husband Tom on several occasions in the last few days.

Now the party was in full swing. All the adults were in the large dining room enjoying a delicious sit-down dinner. The children were all out at the pool having a swim and a barbecue. As Mary began to relax, she realized she owed her husband an apology. Affectionately, she reached under the table and fondled first his knee, then more personal parts. Here is how they were seated.



Unfortunately, she was not able to reach him on the other side of the table, and, unbeknownst to her, she was actually fondling Fred Green. Fred, unhappily married to Sarah, had long had an eye on Betty, Bill White's wife. Seated next to each other, Fred mistook the fondling to be from Betty. Delighted she finally showed some interest, he happily began to fondle Betty. Everyone then, especially Fred, was astonished when Betty stood up and slapped him.

Things were not much better out by the pool. There had been a lot of the predictable horseplay: dunking of one another, taking the younger children's ball and playing keep-away. The oldest child out there was 16-year-old Frank Green. He had injured his knee fairly badly at football practice recently and was embarrassed to admit how much it still hurt. He had taken only a mild part in the horseplay, mostly shouting encouragement to first one person then another. When suddenly the group decided to throw him in, Frank was worried it would hurt badly and might make the injury even worse. Not wanting to admit any of this, he thought he would get the others to leave him alone by saying, "You couldn't throw me in if you tried." The children all joined forces, even the girls, and they were successful in throwing him in. Unfortunately, they threw him in the shallow end; he hit the bottom and broke his neck

When Frank didn't jump back up like the children were expecting, they realized he was badly hurt. Frank's little sister Sally ran into the dining room to get an adult to come help. Sally was 8 years old and loved to play pranks, so the adults assumed this was one of Sally's jokes. The adults suspected that Sally had been sent to lure one out near the pool where the children would then throw in the adult. As Sally would not be deterred from getting an adult to come out no matter how much they chided her, Sally's mother (Sarah Green) finally became angry. She grabbed Sally's arm and took her to the car, telling her she would have to sit in the car for the remainder of the party.

As Sarah strode back to the dining room from the car, she saw that her son Fred was indeed motionless in the bottom of the pool. She shrieked, then fainted. The other adults heard her shriek and ran out. Tom White called 911. The ambulance arrived shortly with the EMTs racing to the pool almost before the ambulance had come to a full stop. Frank received excellent care, but he will be paralyzed permanently.

One other event from this ill-fated party needs to be mentioned. Fourteen-year-old Ted White, son of the hosts, was a bad egg. He delighted 10-year-old Bob White by suggesting they go off together to have fun on their own. Ted had discovered that if one tilted a drink machine just right, then a small arm could reach up and pull out the cans. Ted explained the procedure to Bob. Ted then tilted the machine forward as Bob reached in. Ted was not as strong as he fancied, however, and he dropped the machine. Bob's arm was broken in several places.

Take all the facts as proved. What lawsuits involving <u>intentional tort</u> actions could be brought and how would be they be defended, *i.e.*, what negative defenses would be used and what privileges would be claimed? What is the likely outcome of each?