

Business law



**ASSIGN
BUSTER**

Q Defamation is the publication of a ment, whether oral or otherwise, that tends to lower a person’s reputation in the eyes of a right thinking member of the society (Morissette 150). In this case, Stanford launches a campaign that Cornell Company is selling untested software to clients. This statement will affect the trade of Cornell Limited, as the buyers will fear that they are being used as guinea pigs, to try out untested software.

Cornell can sue Stanford on defamation, on the ground that they included a message in their advertisement, which is likely to injure, and indeed injured Cornell Ltd’s trade. To do this, the plaintiff should prove the following three things: The message included in the advertisement was defamatory, which means it has a likelihood to injure the reputation of Cornell Ltd. Claiming that Cornell Ltd marketed their software untested is defamatory because the plaintiff will lose business customers.

The second element of the advertisement, which is a basis to sue for damages on defamation, is that the advert referred to the plaintiff. The advert was explicit that Cornell Ltd markets untested software, so the defamation refers to the plaintiff. Malice is the final element in the advert that creates a basis to sue for damages on defamation, in the sense that the advert was maliciously aimed at ruining the reputation of Cornell Ltd in the eyes of their customers. This would therefore make Cornell Ltd lose their customers to Stanford. Stanford Company is malicious because they are using false information to win business customers.

Q2

Negligence is failure to act in a way which a reasonable person would have acted under the same circumstances, or acting in a way which a reasonable person would not have acted (Clarkson, Miller and Jentz 23). Flo can sue Dan

under negligence, if she proves that Dan had a legal duty of care, Dan breached the duty of care and as a result, Flo suffered damages. Therefore, law should impose a duty of care imposed for the benefit of a third party, to ensure fairness and justice (Harpwood 31)

Flo must show that Dan owed her a legal duty of care. By the fact that Dan's actions or omissions can cause damage on Flo, a duty of care exists. A reasonable person should have set the parking brake, in order to prevent loss to any person who might be affected by the vehicle rolling back. With this argument, Flo can show that Dan owed her a legal duty of care. In addition, another thing that Flo should show is that the duty of care was breached. Dan did not consider the repercussions of his negligence, he carelessly continued to make the delivery without setting the parking brake and by this, and he breached his duty of care.

Finally, for Flo to build a case, she must show that she suffered damages. A series of events that were started by the track rolling back eventually caused injuries to Flo. Although the track itself did not cause injury to her, the act of omission by Dan is what started a series of events that led to injury to Flo. Therefore, Flo should simply show that she suffered injury, which is traceable to the negligent act of Dan. Flo can use these three arguments to build a case against Dan and claim damages.

Work Cited

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