

Irac brief and torts scenario

Law



IRAC Brief and Torts Scenario IRAC Brief and Torts Scenario Part IRAC is an acronym used as a legal analysis method and its format is often used to issue hypothetical questions in bar exams and law school. It stands for Issue, Rule, Application and Conclusion in relation to the case scenario given.

Issue

Should the plaintiff, Bamundo, Zwal and Schermerhorn; be compensated for their loss or not?

Rule

In March 2015, the Southern District of New York made a ruling in favor of the Sentinel Insurance Company. The insurance company, therefore, was not to compensate Bamundo, Zwal and Schermerhorn on their claim of 2 months business loss. The decision was based on the fact that, “ the operative executive orders were explicitly based on the flooding associated with Sandy.” (Butts, 2015) The rule used in deciding the case was from the Executive Order 165 and Order 163 while the insurance policy acted as the agreement document.

Application

The plaintiff’s insurance cover excluded the case of losses or damages that were caused indirectly or directly by the floods. It covered only the losses or damages that were caused “ by order of a civil authority as a direct result of a Covered Cause of Loss to property in the immediate area.” (Butts, 2015) Bamundo, Zwal and Schermerhorn main cause of loss was Sandy storm which is a flooding condition. The evacuation was, therefore, not a cause of loss to the plaintiff’s but a precautionary act to avoid further loss. In case, the civil authority acted out of no natural forces to evacuate the plaintiff’s then the case’s verdict would have favored them.

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Conclusion

The major cause of the loss to the plaintiff is the floods conditions, therefore, the insurance company are not suppose to compensate the plaintiff. The civil authority evacuation order was a precautionary act that whose cause was the flooding condition. The judge's ruling is right and the facts and arguments that are provided are reasonable and make sense.

Personal Property

Personal property is a property that is movable contrary to real estate or real property. In common law it can be referred to as personalty or chattels while in civil law it is called movables or immovable property. It can be classified in the form of tangibles and intangibles, whereby, the tangibles include clothing, furniture and jewelry while intangibles include negotiable instruments and securities (Burke & Snoe, 2008).

Real Property

Real property is a kind of property attached to land directly and includes the land itself (Burke & Snoe, 2008). It includes buildings, other structures, interests and rights. The real property can be categorized as either residential or rental.

Intellectual Property

Intellectual property is a broad group of intangibles that have a company as the legally owner and protected. The company does not need consent for implementation or outside use (Burke & Snoe, 2008). It can be divided into simple ideas, trademarks and copy rights, patents and trade secrets.

Part 2

1. The potentially liable for the injuries of the biker are Smith and Florida School board and Fred himself. In terms of negligence, Fred failed to

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concentrate on the road, Florida school board did not place additional staff to take care of the children and Fred ought to have used a side street (Horsey & Rackley, 2013).

2. The driver would have focused on the road, looked for a place to park before solving the issue. The Florida school ought to have employed an additional staff to be with the kids at the back while Fred was supposed to maintain riding on the side street (Horsey & Rackley, 2013).

3. The biker losses include the loss of both his legs, surgery cost and 6 months miss of work. The legal cause of the biker's accident is negligence from the part of the biker, Smith and the School board(Horsey & Rackley, 2013).

4. In negligence claim, the rider can recover the surgery cost and losses due to six months not working. The amount could be recovered from the insurance body that has insured the school vehicle through the school board (Horsey & Rackley, 2013).

5. Measures to avoid injuring bikers include the introduction of biker's riding paths beside the main road and issuance of heavy penalties to those who break the traffic rules. In case of passenger service vehicles, it is important for sufficient staff be employed (Horsey & Rackley, 2013).

Reference

Burke, D. B., & Snoe, J. A. (2008). Property: Examples and Explanations. New York: Aspen Publishers.

Butts, T. J. (2015) Recent Decisions Find No Business Income Coverage Where Flood Caused Order of Civil Authority. Retrieved from <http://www.propertyinsurancecoverageinsights.com/2015/04/recent-decision-finds-no-business-income-coverage-where-flood-caused-order-of-civil-authority/>
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Horsey, K., & Rackley, E. (2013). Tort law. Oxford, UK: Oxford University Press.