

MEMORANDUM

Our evaluation engine was recently recalibrated to resolve a scoring display issue that affected component-level breakdowns. This report reflects the corrected analysis. The overall band score and qualitative feedback were unaffected by the prior issue. This advanced report format provides a more detailed view of your performance across each FBBE criterion.

TORTS

Slip-and-Fall & Pool Accident

Heron v. Pelican Pantry; Vole Estate v. Osprey Holdings LLC

Attempt 1 of 3



SHEP PRACTICE BAND

Exceeds Expectations

Scored on the MEE 1 to 6 scale

1,252
Words

0.777
Calibrated

FBBE COMPONENT SCORES



OVERALL FEEDBACK

Overall, you demonstrated a strong command of the substantive law, particularly in the areas of premises liability, negligence, and comparative fault. Your ability to identify the key issues and articulate the relevant legal rules shows solid preparation and understanding of Florida tort law.

To elevate your performance, focus on ensuring that every rule you state is followed by a concrete application to the specific facts of the problem. Strengthening the connection between your legal analysis and the factual record will bring your essays to the next level.

STRENGTHS

Premises Liability and Comparative Fault

You did an excellent job identifying the modified comparative negligence issue and correctly articulating Florida's threshold rule. Your analysis connected the 55% fault finding to the legal bar on recovery clearly and persuasively.

Premises Liability for Trespassers

This was a strong analysis. You correctly identified the plaintiff's status as a trespasser and accurately stated the limited duty owed by the landowner. Your connection between the lack of intentional misconduct and the failure of the negligence claim was logical and well-supported by the facts.

Ms. Heron v. Pelican Pantry

Negligence

A prima facie case of negligence requires the plaintiff to show (1) a duty owed to plaintiff, (2) breach of that duty owed to the plaintiff by the defendant, (3) causing (both actual and proximate cause), (4) damages to the plaintiff.

Duty

A duty is owed to all foreseeable plaintiffs. Under Florida law, a foreseeable plaintiff is a plaintiff within the foreseeable zone of risk. Business invitees, under Florida law, are owed a special duty of care. The business owes its patrons a duty to warn or make safe of non-obvious, dangerous known conditions and a duty to conduct reasonable inspections to find foreign transitory objects or substances, and then make safe. Constructive knowledge is met when the business has awareness of a foreign transitory object or substance and fails to remedy it.

Here, Pelican Pantry owes a duty to Ms. Heron as a patron to Pelican Pantry (business invitee), to maintain and keep premises safe from foreign transitory objects or substances.

Breach

A breach occurs when the defendant falls short of the standard of care, which results in the plaintiff's injury.

Florida recognizes the open and obvious defense, meaning that if the dangerous condition was so open and obvious to the plaintiff, the plaintiff ought to have taken reasonable steps to avoid the condition. Here, Pelican Pantry will argue that the danger was open and obvious to Ms. Heron, had she not been texting (see Modified Comparative Negligence Defense below). However, Ms. Heron will argue that the liquid substance was clear; and therefore, a patron would likely not notice the substance on the floor.

Additionally, Pelican Pantry breached the duty owed to Ms. Heron. Ms. Heron will argue that the store employees, including assistant manager Mr. Badger, had been aware of the unit's recurring leak issues for several weeks but had failed to remedy it by not (1) scheduling repairs, (2) implementing a regular mopping schedule in that specific area, and (3) there was no "wet floor" sign or other warnings in place. Therefore, Pelican Pantry did breach the duty of care owed to Ms. Heron.

Causation

Causation is met when actual and proximate cause can be shown. Actual cause is defined by the "but for" test. But for the defendant's conduct, the plaintiff would not have been injured. Proximate cause is defined by the "foreseeability" test. Under this test, the plaintiff's injuries were a foreseeable consequence of the defendant's conduct.

Here, Ms. Heron will argue that but for Pelican Pantry not remedying the foreign transitory substance on the floor, neither making conditions safe for its patrons, Ms. Heron would not have been injured. Pelican Pantry will argue that Ms. Heron was "engrossed" in text messaging her daughter and therefore she failed to notice the liquid substance — had she noticed, no injury would have occurred. However, Ms. Heron will likely argue that a "clear" substance is unlikely to be visible to a customer. Ms. Heron will further argue that Pelican Pantry's failure to remedy the foreign transitory substance on the floor is a foreseeable cause of injuries that occurred to Ms. Heron, and other patrons.

Damages

Under Florida law, compensatory damages are offered to injured plaintiffs. Plaintiff must show actual physical injury or injury to property in order to recover. Pure economic loss is not recoverable under a negligence claim. Plaintiffs are awarded economic damages (loss of wages, medical expenses) or non-economic damages (pain and suffering, emotional damages).

Here, Ms. Heron will likely seek compensatory damages. Ms. Heron's damages will be equal to total damages of \$100,000 including her medical bills and lost wages from her part-time tutoring job.

Therefore, Ms. Heron has a valid negligence claim against Pelican Pantry.

Defenses

Modified Comparative Negligence

Florida is a modified comparative negligence state. This means that a plaintiff who is over 50% at fault is barred from recovery. However, if the plaintiff is 50% or less at fault, the plaintiff can recover, but their damages will be reduced by their share of fault.

Here, Ms. Heron was shown to be greater than 50% at fault (55%) due to her inattentiveness while walking and texting.

Therefore, Ms. Heron will be barred from recovery in a negligence claim against Pelican Pantry.