

REGARDLESS OF THE LACK OF INTENT TO DO HARM, THE PERSON ACTING WITH INTENT TO CAUSE CONTACT WILL BE RESPONSIBLE FOR ALL HARM THAT RESULTS.

Fact Pattern:

Plaintiff Drinker was on a bar stool having drinks when a fight broke out in the bar. Defendant Bartender grabbed Plaintiff Drinker believing, incorrectly, that he was about to join the fight. Plaintiff Drinker as a result of being grabbed broke his ankle. Despite appropriate medical care the fracture resulted in a non-union, multiple surgeries secondary to an infection, and eventual amputation of the limb.

Question:

In an action to recover damages for an alleged battery, must the victim prove that the alleged wrongdoer intended to do harm?

Rule

In an action to recover damages for a battery, the victim must only show there was an intent to cause a contact with an individual without consent.

Discussion

There are 2 separate issues in this case. The first issue deals with intent. The second issue addresses damages.

Any intent to engage in a wrongful act is sufficient—it is not necessary to prove intent. This rule is based on the rationale that if the intended act is unlawful, the intention to commit it must necessarily be unlawful. When it has been established that the wrongdoer committed a battery, he is liable for all injuries resulting directly from the wrongful act, whether or not they could have been foreseen by him. Even though the plaintiff's preexisting medical condition might have included severe peripheral vascular disease that made non-union, infection, and amputation he is liable for all damages which resulted.

California / Texas / Florida

This case demonstrates the well settled proposition that “the tortfeasor must take his victim as he finds him,” referred to as the “thin skull” doctrine. It essentially means that the fact that a plaintiff is particularly susceptible to serious injury, will not mitigate the tortfeasor’s liability.

Here, Defendant Bartender is liable for all harm, and potentially the bar itself if Defendant Bartender was acting within the scope of his employment.

