

## Question 1

### Paul's claims against Dan

#### Defamations

~~Defamation is~~ :

Paul can reasonably assert a claim of defamation against Dan. Defamation is

(1) defamatory statements (2) concerning the plaintiff (3) published <sup>to third persons</sup> and (4) damages

Libel is written defamation, whereas Slander is spoken defamation. Slander requires special damages.

Here, Dan told the class "I hope no other student has copied his footnotes from another student's paper like that two-bit actor Paul." Because this accusation was spoken to Paul's class, while Paul was in class - this falls under Slander.

#### Defamatory Statement:

Here, Dan made the accusation after meeting with Jack and inadvertently mistaking Jack's paper as Paul's; thereby accusing Paul of plagiarism (copying Jack's paper). The oral statement made by Dan ~~was~~ was that Paul had copied his paper - a humiliating statement.

### Concerning the Plaintiff

Here, Dan used Paul's name in his accusatory statement to the class

### Published to Third Persons

The statement was heard and understood by third persons because Dan made the statement to Paul's <sup>legal</sup> writing class, where the students heard and understood the statement concerning Paul.

### Damages

Slander requires special damages, Paul can also raise Intentional Infliction of Emotional Distress.

Thus, Paul can successfully claim Slander against Dan.

### IIED

Intentional infliction of emotional distress requires a plaintiff to show extreme and outrageous behavior, in the zone of causing emotional distress.

Here, Paul can point to Dan's announcement that Paul had

2 copied another student's paper, in class

While Paul was present. This ~~was an~~ <sup>can be seen as an</sup> extreme and outrageous act, especially since Dan was the professor of the class.

~~The statement was also to Paul's face~~  
Paul was also present when the statement / accusation was made and likely suffered extreme humiliation. This can be evidenced by Paul's severe panic attack.

Thus, Paul ~~can~~ will likely be successful in his IIED claim against Dan.

## Defenses

~~Defenses~~

Defenses to a tort claim include Truth (to a defamation claim) and Mistake.

### Truth

Here, Dan will be unsuccessful in claiming his statement to the class about Paul's copying ~~because~~ was true, because Paul, in fact, did not copy Jack's paper or footnotes. The paper that was pulled was not Paul's paper, but was, in fact, Jack's own paper.

Thus, It is not true that Paul copied Jack's paper and Dan will not be successful in claiming Truth

as a defense to defamation.

## Mistake

Here, Mistake will also not be a successful ~~the~~ defense by Dan.

A reasonable person in Dan's position <sup>would</sup> have used <sup>due diligence</sup> <sup>and</sup> would have double checked Jack's claim simply by checking the name on the paper before announcing to the class that Paul ~~was~~ had copied a paper.

Therefore, Mistake will not be a defense for Dan.

Thus, Dan has no defenses against Paul's slander and ITD claims.

Dan may argue that Paul had suffered anxiety even prior to this event since Paul was having difficulties in school and was worried about failing. Dan may even point to the fact that he asked Paul to get help for his anxiety, and therefore should not be liable for Paul's subsequent anxiety attack.

However, ~~this~~ Dan's argument will likely fail because Dan will be liable to Paul even if Paul had a susceptibility to anxiety, because this was an intentional tort. and

~~Therefore~~ the Defendant, Dan, will be responsible for damages. even if Paul did not ~~go~~ seek help (or mitigate) <sup>Dan cannot bring up</sup> Contributory, Comparative, and Assumption of Risk ~~as~~ as defenses. Thus, Dan will be held liable to Paul for the defamation / slander and resulting TIED.

Use blue or black ink. Write on both sides of each page.