

Answers to Critical Legal Cases in Chapters 29 and 30

Chapter 29

Critical Legal Case 29.3 Power of Attorney. Yes, King is liable to Bankerd for gifting the property to Mrs. Bankerd. A power of attorney creates a principal-agent relationship. Broadly defined, a power of attorney is a written document by which one party as principal appoints another as agent (attorney in fact) and confers upon the latter the authority to perform specified acts on behalf of the principal. The power of attorney delineates the extent of the agent's authority and is strictly construed by the court. The court held that the general power of attorney in this case which authorized the agent to sell and convey the property on such terms as the attorney in fact deems proper, did not, however, authorize the agent to make a gift of the property. This violated the agent's duty of loyalty that he owed to the principal. The Appellate Court affirmed the trial court's grant of summary judgment in favor of Bankerd that awarded \$13,555 in damages against King. *King v. Bankerd*, 303 Md. 98, 492 A.2d 608, **Web** 1985 Md. Lexis 589 (Court of Appeals of Maryland).

Critical Legal Case 29.5 Imputed Knowledge. Yes, Boulevard Investment Company (Boulevard) is liable to Iota Management Corporation (Iota) for breach of contract. The knowledge of an agent of corporate principal regarding matters within the agent's scope of employment and authority is imputed to the principal. The court held that Cecil Lillibridge, who was Boulevard's maintenance supervisor, had acquired knowledge of the condition of the pipes through his work at the hotel, clearly within the scope of his employment and authority. The court held that this knowledge was imputed to the corporate principal, Boulevard. The appellate court affirmed the trial court's decision that permitted Iota to rescind the contract. *Iota Management Corporation v. Boulevard Investment Company*, 731 S.W.2d 399, (Court of Appeals of Missouri).

Chapter 30

Critical Legal Case 30.1 Appellant motorcyclist sought review of the judgment of a common pleas court (Ohio), which, in his personal injury action arising out of a collision between his motorcycle and a pickup truck owned and operated by the employee of appellee employer, granted summary judgment to the employer. The employee was on his way to a friend's house on his lunch break, driving his own truck, when he collided with the motorcyclist. In his suit, the motorcyclist contended that the employer was vicariously liable for the employee's negligence and that the employer was directly liable for its own negligence. The appeals court held that the trial court correctly found that the employer had no vicarious liability for the negligence of the employee under the doctrine of *respondeat superior*. There was no evidence that the employee was subject to the direction and control of the employer as to the operation of his truck at the time of the collision. Further, the evidence did not support a finding that the employer was directly negligent. The employer's decision to allow only 35 minutes for a lunch break was too remote to be considered a proximate cause of the employee's injury. Moreover, even if the employer were aware of the employee's poor driving record, it had no duty to protect the public from the possibility that the employee would have an accident while driving his own car to and from work. *Siegenthaler v. Johnson Welded Products, Inc.*, 2006 Ohio App. Lexis 5616 (Court of Appeals of Ohio, 2006)

Critical Legal Case 30.5 Tort Liability. Yes, the Newspaper Agency Corporation (NAC) may be held liable to the Johnsons for the negligence of its employee-agent, Donald Rogers. An agent is always liable for his own negligence caused when acting on behalf of his principal, and the principal is liable for the negligence of its agent if the agent was acting within the scope of his employment when the accident occurred. The court also held that the Johnsons could recover punitive damages from NAC. Punitive damages may be imposed for conduct that is willful and malicious or that manifests a knowing and reckless indifference and disregard toward the rights of others. It is the extreme, outrageous, and shocking behavior that justifies their imposition in drunk driving cases. The state Supreme Court rejected NAC's motion for summary judgment on the issue of punitive damages. *Johnson v. Rogers*, 763 P.2d 771, 90 Utah Adv. Rep. 3, (Supreme Court of Utah).