

ADMINISTRATION OF JUSTICE

You Decide the Case #1

The Lawn Chair Battery

Judge: _____ Period: _____ Row: _____

THE FACTS:

Sarah and her twelve-year-old son Billy were visiting with Sarah's sister, Beth. The three were in Beth's backyard when Beth started to sit down in a wood and canvas lawn chair. As she sat down Billy pulled it out from under her causing Beth to fall. As a result of the fall, Beth suffered a fractured hip and other painful and serious injuries. However, Billy's story differs from Beth's. Billy's version is as follows:

While Sarah and Billy were in the backyard, Beth came out of her house into the backyard. Sometime thereafter, Billy picked up a lightly built wood and canvas lawn chair and moved it sideways a few feet and seated himself therein. At this time, Billy realized that Beth was about to sit down at the place where the lawn chair had been. So, Billy hurriedly got up from the chair and attempted to move it toward Beth to aid her in sitting in the chair. However, due to Billy's small size, he was unable to get the lawn chair under the plaintiff in time to prevent her from falling to the ground.

Beth filed a tort action against the five-year-old boy for the injuries sustained, claiming that:

- (1) **Billy was a trespasser and had no right to touch, move, or sit in any chair; and**
- (2) **Billy's action in moving the chair constituted battery**

During the trial, the Superior Court held that Billy was a visitor and not a trespasser as claimed by the plaintiff. The court then grappled with the issue of battery. The rule of battery is as follows: An actor is liable for an act which directly or indirectly, is the legal cause of a harmful contact with another, if:

- 1. **the act is done with the intention of bringing or resulting in harmful or offensive contact and/or apprehension thereof; and**
- 2. **the contact is not consented to by the other or the consent is obtained by fraud or duress;**
- 3. **and, the contact is not privileged**

Beth argued that she is entitled to damages because Billy moved the chair while she was in the act of sitting down. Therefore, Billy's action was for the purpose or with the intent of causing Beth to have bodily contact with the ground.

The trial court held that the intent element of battery would be established if it was also proven that, when Billy moved the chair, he knew with substantial certainty that Beth would attempt to sit down where the chair had been. Billy's age came into play in determining what he knew as based

upon his experience, capacity, and understanding. The trial court found that the arthritic woman had begun the slow process of being seated when the defendant quickly removed the chair and seated himself upon it, and that he knew, with substantial certainty, at that time that she would attempt to sit in the place where the chair had been. Therefore, Billy had intent to commit battery.

Billy appealed the trial court decision. As an appellate judge hearing the appeal, would you:

1. Affirm the trial court's holding that Billy is liable because he was a trespasser and not a visitor on the property, and therefore had no right to touch, move, or sit in any chair in Beth's yard.
2. Affirm the trial court and hold that there was intent to commit battery because Billy knew with substantial certainty that Beth would sit in the place where the chair had been based on the time sequence of the events.
3. Reverse the trial court and hold that there was no battery committed because Billy did not have intent to cause bodily contact or apprehension based on his version of the facts as required by law.
4. Reverse the trial court decision and hold that there was no battery due to Billy's lack of knowledge that Beth would sit down where the chair had been, based on a five year olds experience, capacity, and understanding of the consequences of his act.

You Be The Judge!

Circle your ruling in this case your honor!

Decision 1 Decision 2 Decision 3 Decision 4