

## Week 2: Introduction to Rules: When Rules are Statutes (36/36)

### Chapter 2: Inside a Rule of Law (Newman)

#### In-Class Discussion

- Client's legal problem: client was sued for trespass. She suffers from seizures. While driving, the client had a seizure while driving the car, careening onto the owner's land, destroying his rose bushes.
- C: the court will rule that the defendant did not trespass on the owner's land because she unintentionally entered the land.
- R: trespass to land prohibits the physical invasion of an unauthorized person onto another's private property (general rule). An intention to trespass is not required, only an intention to enter the land (specific rule).
- A: the defendant did not trespass because she involuntarily entered the owner's land. Like the defendant in *Duckett*, who was pushed onto the property, the defendant in the present case involuntarily entered the owner's land when her seizure caused her car to enter another's property. Unlike the defendant in *Samuels*, who intended to enter the property, the defendant in the present case involuntarily entered the owner's land. A court will most likely follow the reasoning of *Duckett* and *Samuels*, and similarly rule that the defendant's intent to do the act that resulted in the trespass and not the intent to trespass is required. Although the defendant knew she suffered from seizures and she intentionally drove her car, a court will likely focus on whether the trespass itself was intentional. Thus, a court will likely conclude that she is not liable because she never intended the act that resulted in the trespass.
- C: the defendant is not liable for trespass because she did not intend the act that resulted in the trespass. The defendant's entrance onto the owner's land was caused by a seizure, an involuntary act.
- RULES Paragraph in CRAC
  - Tests for rules
    - **Mandatory elements**
      - Sets out elements and requires that they all be met
      - Called a **conjunctive test**
      - Ex: it is unlawful to drive in a school zone in excess of 20 mph when children are present
    - **Factors test**
      - Not all the factors have to be met
      - Gives more leeway to judges
      - Ex: professionals must act with the level of skill and learning commonly possessed by members of the profession, in good standing. Courts may look at whether there are conflicting schools of thought as to the best way to proceed, whether the defendant held herself out as a specialist in the field, and the custom or standard of care in the community

# Basic Legal Research And Writing

**Amy E. Sloan, Diane Pevar**



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