

TORTS QUESTION

Paul, age eight, and Paul's mother, Mom, spent the morning at Funworld, an amusement park. Paul decided to ride the Ferris wheel. Mom, who was pregnant and tired, waited for him about 100 yards away.

After Paul entered a Ferris wheel car, the attendant, Employee, fastened the car's safety bar. As the Ferris wheel began to turn, Paul could hear loud screams from a car carrying two boys, both age six. The boys were rocking their car vigorously. Employee also heard the two boys screaming and saw them rocking their car, but Employee took no action to stop them.

As Paul's car began to descend from the top of the wheel, the two boys—whose car was right behind Paul's car—shook the safety bar on their car hard enough that it unlatched. Both boys fell to the ground. One of the boys struck Paul on his way down.

After the two boys fell, Employee stopped the Ferris wheel and sounded an emergency alarm to notify Funworld security guards of the incident.

Mom did not see the accident, but she heard the alarm and rushed to the Ferris wheel. A crowd had already gathered, and Mom was unable to see Paul. A bystander told Mom that "a little boy has been killed." Mom, panic-stricken, attempted to make her way through the crowd but could not.

Ten minutes later, the two boys who had fallen were taken to the hospital by an ambulance.

Paul and several of the other passengers begged to be taken off the Ferris wheel. Employee, however, refused without any explanation to restart the Ferris wheel. Thirty minutes later, a manager showed up and ordered Employee to restart the Ferris wheel and allow the passengers to exit.

Forty minutes after the accident, Mom was finally reunited with Paul. Both Paul and Mom went to the hospital, where Paul was treated for minor injuries caused by being hit when the two boys fell and where Mom suffered a miscarriage as a result of accident-related stress.

National accident records show that during the last 40 years, there has been only one other incident in which injuries have occurred as a result of passengers rocking a Ferris wheel car.

Paul and Mom have sued Funworld. Funworld has conceded that Employee was acting within the scope of his employment.

Based on the facts, could a jury properly find that

1. Funworld falsely imprisoned Paul? Explain.
2. Funworld was negligent because Employee failed to take action to stop the boys from rocking their car? Explain.
3. Mom is entitled to damages for her emotional distress and resulting miscarriage? Explain.