

CVL Le Havre des Femmes v. Dubé QCSC

Facts:

- In the midst of a divorce, Dubé was taken in by a women's shelter that employed Nicole Denis as a part-time « intervenante ».
- With knowledge of the resident's assets and alcoholism, Denis invited Dubé to stay with her for an indefinite period and to consume as much alcohol as she wished.
- During this time, Denis extorted \$27,662.10 from Dubé. Dubé then sued Denis and the women's shelter.

Issue:

- Was the women's shelter negligent under Article 1053 CCLC?
 - Was it vicariously liable under Article 1054 CCQ?
- (Vicariously: en FR: faute du cocontractant)

Held:

- No
- No

Reasoning:

Analyzing if the Le Harve is responsible under art 1053 of CCLC (art 1457 CCQ?)

- "Toute personne capable de discerner le bien du mal, est responsable du dommage causé par sa faute à autrui, soit par son fait, soit par imprudence, négligence ou inhabileté."
 - Court rejected that there was negligence/(faute) on behalf of the employer : no negligence(faute) in hiring process, they were prudent in that they also told all employees to not host clients in their homes.
 - Le Harve did not have to warn clients that there was risk of extortion (that's weird)
 - Le Harve acted with caution and as a reasonable employer.

Analyzing if the Le Harve is responsible under art 1054 of CCLC (art 1463 CCQ?)

- "The principal(le cocontractant) is bound to make reparation for injury caused by the fault(negligence) of his subordinates in the performance of their duties; nevertheless, he retains his remedies against them."
 - For the employer to have incurred civil responsibility under Article 1054, the burden rested on the victim to prove: (1) the **negligence(CVL: fault)** committed by the employee (2) the **link** between employer and employee and (3) that the fault was committed **within the normal scope of the employee's functions**. The extortion of
 - Dubé's assets took place outside of the normal scope of the Denis' duties. In addition, the wrongful act in no way benefited her employer.

Ratio:

- A court will find an employer vicariously liable for an employee's wrongful act if two conditions are met:
 - (1) it arose within the **normal scope** of the employee's duties and
 - (2) it **benefited** the employer, in part or in full.
- The fault/negligence committed by the employer must be partially for the benefit of the employee

The Dube Trahn Summary And Notes

Camilla Rothe



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Table of Contents The Dube Trahn Summary And Notes

1. Understanding the eBook The Dube Trahn Summary And Notes
 - The Rise of Digital Reading The Dube Trahn Summary And Notes
 - Advantages of eBooks Over Traditional Books
2. Identifying The Dube Trahn Summary And Notes
 - Exploring Different Genres
 - Considering Fiction vs. Non-Fiction
 - Determining Your Reading Goals
3. Choosing the Right eBook Platform
 - Popular eBook Platforms
 - Features to Look for in an The Dube Trahn Summary And Notes
 - User-Friendly Interface
4. Exploring eBook Recommendations from The Dube Trahn Summary And Notes
 - Personalized Recommendations
 - The Dube Trahn Summary And Notes User Reviews and Ratings

- The Dube Trahn Summary And Notes and Bestseller Lists
- 5. Accessing The Dube Trahn Summary And Notes Free and Paid eBooks
 - The Dube Trahn Summary And Notes Public Domain eBooks
 - The Dube Trahn Summary And Notes eBook Subscription Services
 - The Dube Trahn Summary And Notes Budget-Friendly Options
- 6. Navigating The Dube Trahn Summary And Notes eBook Formats
 - ePub, PDF, MOBI, and More
 - The Dube Trahn Summary And Notes Compatibility with Devices
 - The Dube Trahn Summary And Notes Enhanced eBook Features
- 7. Enhancing Your Reading Experience
 - Adjustable Fonts and Text Sizes of The Dube Trahn Summary And Notes
 - Highlighting and Note-Taking The Dube Trahn Summary And Notes
 - Interactive Elements The Dube Trahn Summary And Notes
- 8. Staying Engaged with The Dube Trahn Summary And Notes
 - Joining Online Reading Communities
 - Participating in Virtual Book Clubs
 - Following Authors and Publishers The Dube Trahn Summary And Notes
- 9. Balancing eBooks and Physical Books The Dube Trahn Summary And Notes
 - Benefits of a Digital Library
 - Creating a Diverse Reading Collection The Dube Trahn Summary And Notes
- 10. Overcoming Reading Challenges
 - Dealing with Digital Eye Strain
 - Minimizing Distractions
 - Managing Screen Time
- 11. Cultivating a Reading Routine The Dube Trahn Summary And Notes
 - Setting Reading Goals The Dube Trahn Summary And Notes
 - Carving Out Dedicated Reading Time
- 12. Sourcing Reliable Information of The Dube Trahn Summary And Notes
 - Fact-Checking eBook Content of The Dube Trahn Summary And Notes
 - Distinguishing Credible Sources

13. Promoting Lifelong Learning
 - Utilizing eBooks for Skill Development
 - Exploring Educational eBooks
14. Embracing eBook Trends
 - Integration of Multimedia Elements
 - Interactive and Gamified eBooks

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