



Trespass to Land

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Trespass to Land

The defendant

(1) intentionally

(2) caused an intrusion, either by entry onto or failure to leave or remove from,

(3) plaintiff's real property.

Intent

All you need is intent for the entry.

Not intent to trespass!

Contrast this with battery.

Ex.: Kicking a box with a child hiding inside.

Entry

Can include:

Going to an off-limits part of property you're allowed to be on.

Doing something with a fixture you're not allowed to do.

Subsurface (horizontal oil & gas drilling)

Overhead (drone encroachment)

Omissions - failure to leave, failure to remove

Damages and Scope of Recovery

- **Allows what is in essence strict liability for damage caused during a trespass.**
- **This is a very powerful way to recover for accidental damage beyond negligence or strict liability.**

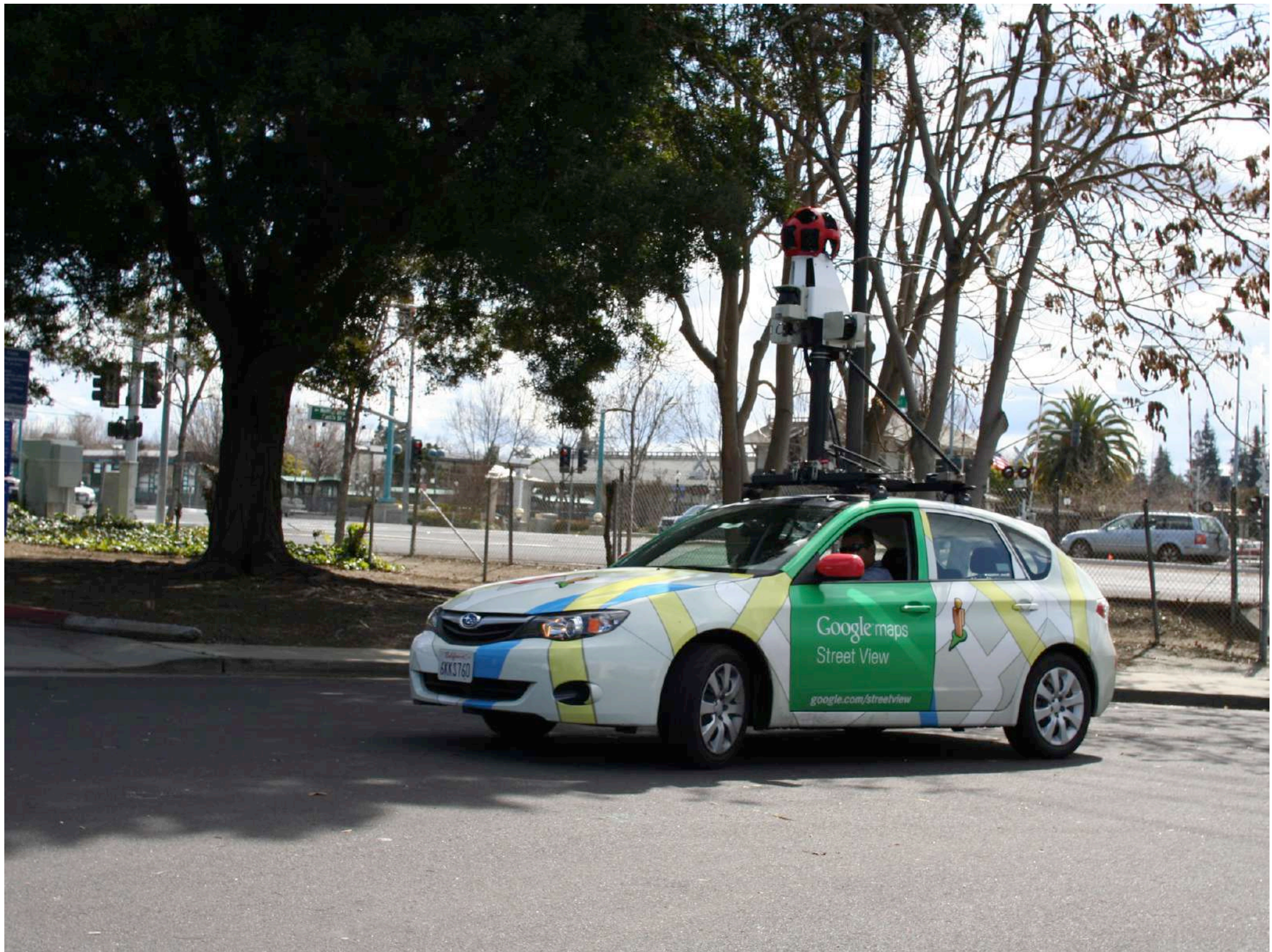
Some quick problems

A person you thought was an employee directs you to a back bathroom ...

You climb shelves to reach something high up in a store ...

You cut down a tree on your own property, but you aren't good at cutting trees and predicting where they will fall, and the tree falls on to your neighbor's property ...

Boring v. Google





From the casebook ... p, 225

Problem: Champagne Whooshes

1. What do you recommend the Wangs do about their problem? Do they have a viable lawsuit against anyone?
2. Suppose Air Adventures, Buoyant Breakfasts, and Champagne Celebrations are the three companies that operate balloon charters that frequently end up over the Wangs' house. Imagine that Buoyant Breakfasts offers to stop flying Mondays through Wednesday and to pay the Wangs a token license fee for all other days. What should the Wangs do with the offer?

**Let's do some
problems on intent to
help you get the
concept.**

Intent problem: Danny places the puck

Danny doesn't intend to trespass, but Danny does intend to place a hockey puck on piece of land "X," and he does so. Piece of land "X" is owned by Pilar, and Pilar hasn't given Danny permission to place the puck on piece of land "X."

Is there requisite intent for trespass to land?

- A. Yes**
- B. No**

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Is there a winning case for trespass to land for Pilar against Danny on these facts?

A. Yes

B. No

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Intent problem: Danny fumbles the football

Danny doesn't intend to trespass, but Danny does intend to throw a football up in the air and catch it on and over piece of land "Y." After a few minutes of doing this, Danny fumbles the ball, accidentally dropping it so it falls on piece of land "X." Piece of land "X" is owned by Pilar, and Pilar hasn't given Danny permission to place anything on piece of land "X."

Is there requisite intent for trespass to land?

- A. Yes**
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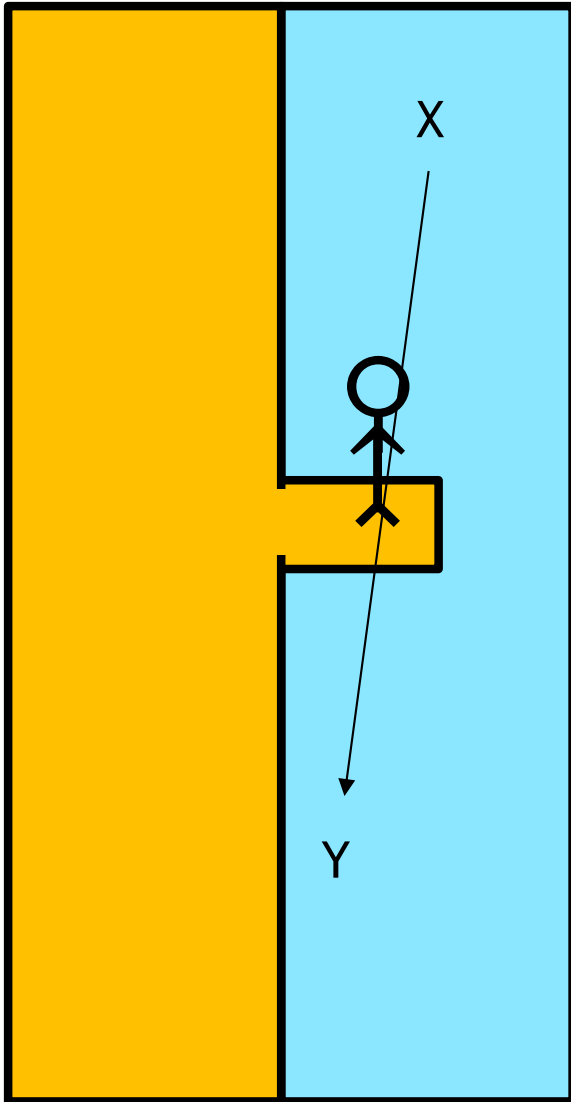
B. No ←

Is there a winning case for trespass to land for Pilar against Danny on these facts?

A. Yes

B. No ←

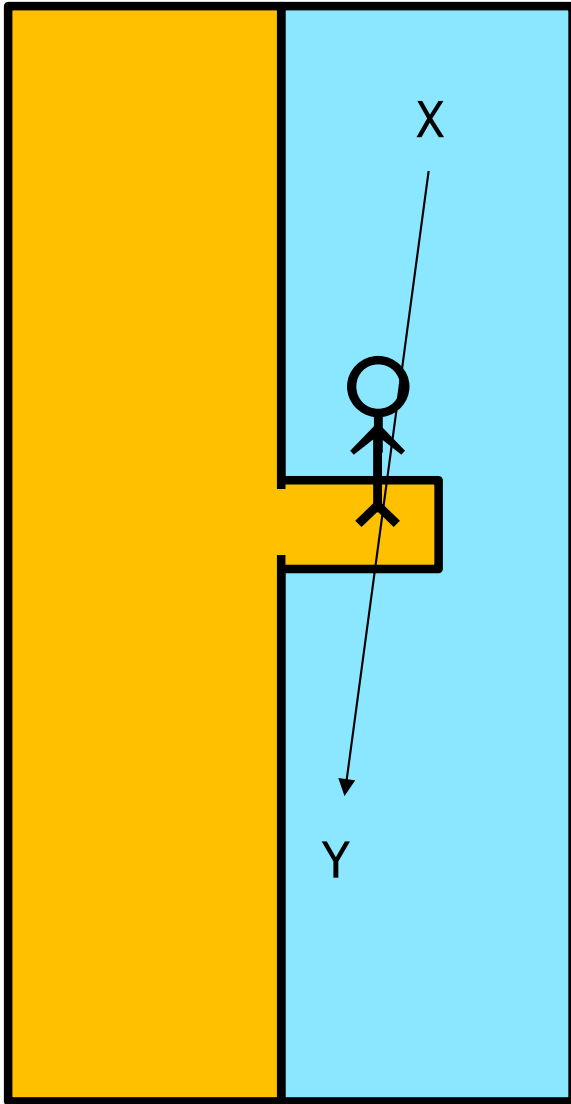
Intent problem: Nora and the notch



Nora owns Blueacre (right). Oren owns Orangeacre (left). Nora believes Blueacre is a rectangle, and her belief in this regard is supported by a land survey she paid for, an attorney opinion, and county land records. But in fact, Oren's owns a notch that extends Orangeacre into what Nora believes to be the rectangular tract of Blueacre. With her subjective belief that she is staying on her property, Nora walks from point X to point Y, with the purpose of moving from one point to the other in a straight line. As a result, she transits the notch. **Is there requisite intent for trespass to land?**

- A. Yes
- B. No

Intent problem: Nora and the notch

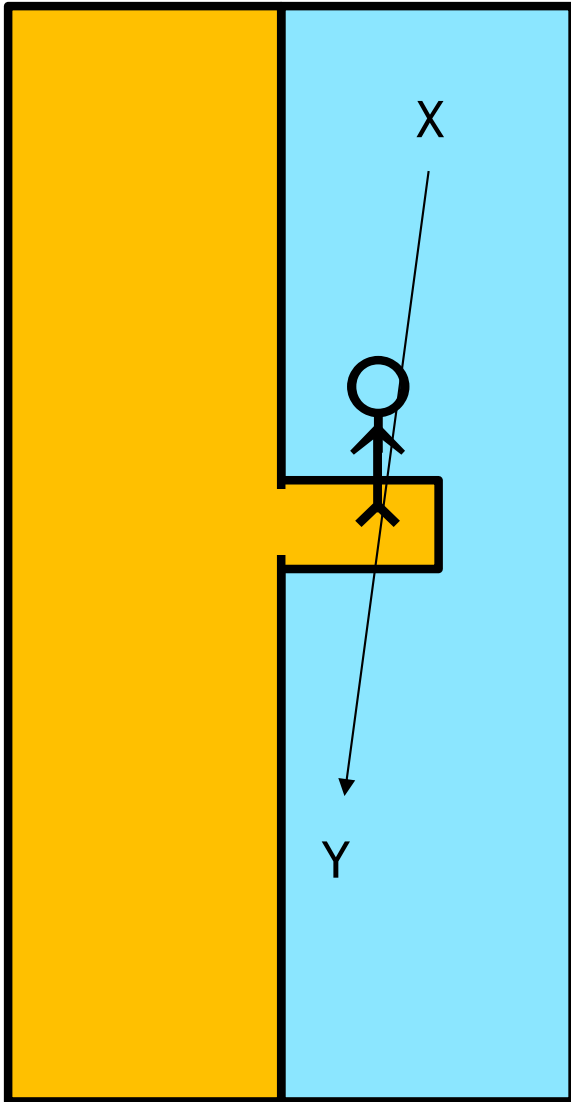


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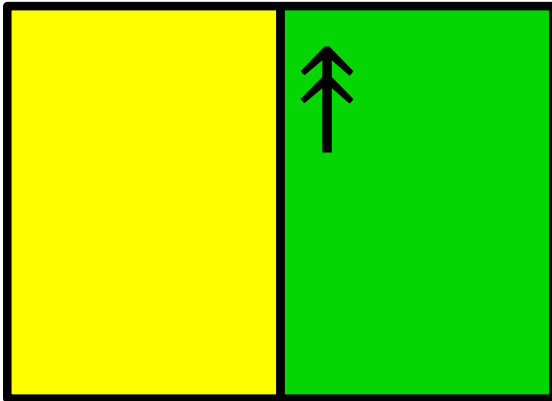
Nora meant to walk where she did. So that counts as the requisite intent for trespass to land.

A. Yes ←

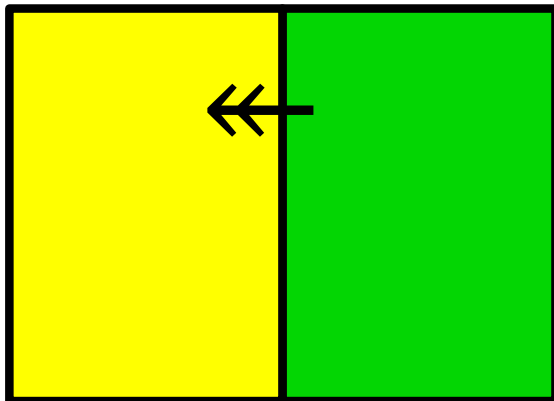
B. No

Intent problem: Glen's pine tree

Before:



After:

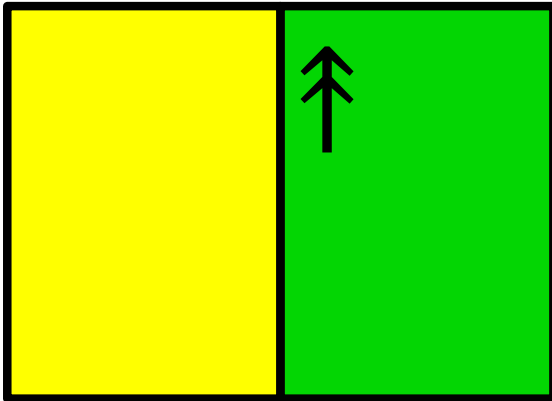


Glen owns Greenacre (right). Yelena owns Yellowacre (left). Glen went out and bought a chainsaw. A hasty doofus, Glen started using the chainsaw to cut down the pictured pine tree. He didn't read the instruction manual, watch videos, or learn anything about how to fell a tree. He started sawing the tree with the subjective intent that it would fall on Greenacre. But because he did it wrong, it fell on Yellowacre. In fact, the objectively reasonable person would have known, exercising due care, that the tree would have fallen on Yellowacre. But Glen was too ignorant to comprehend what would happen. **Is there requisite intent for trespass to land?**

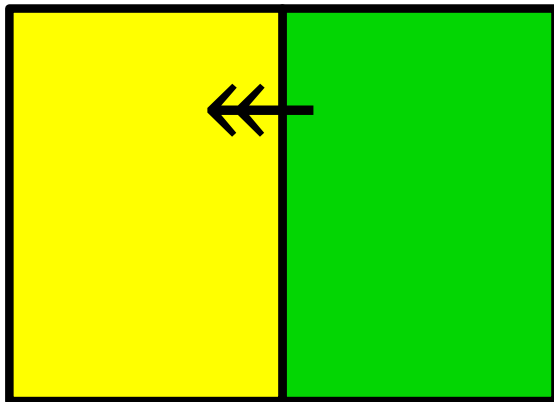
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- B. No

Intent problem: Glen's pine tree

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After:



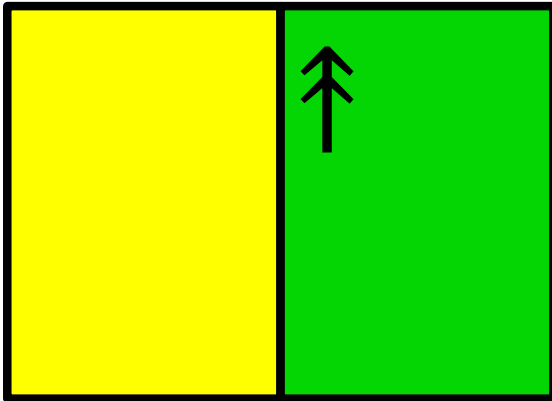
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A. Yes

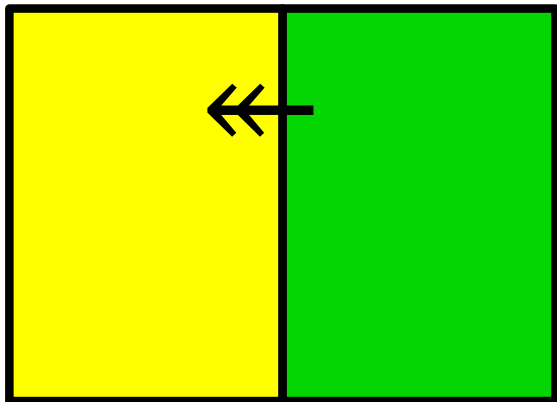
B. No ←

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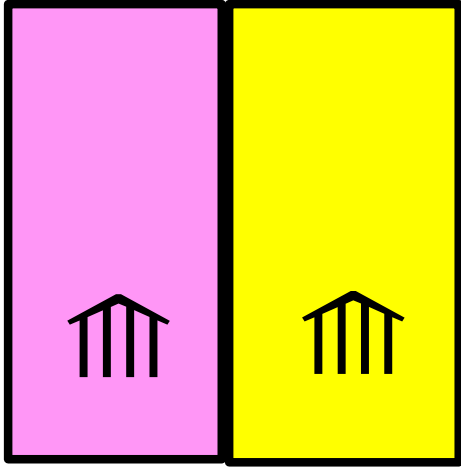
When he was sawing the tree with the subject chainsaw, the tree fell on Yellowacre. Glen was a reasonably prudent person who exercised reasonable care. The tree fell in an area of Yellowacre that was not known to be a danger. Is there requisite intent?

A. Yes

B. No ←

Glen didn't act with the purpose of having the tree end up where it did, and he didn't have substantial certainty that it would end up where it did, so he doesn't have the requisite intent.

Intent problem: Mitch's mistake #1



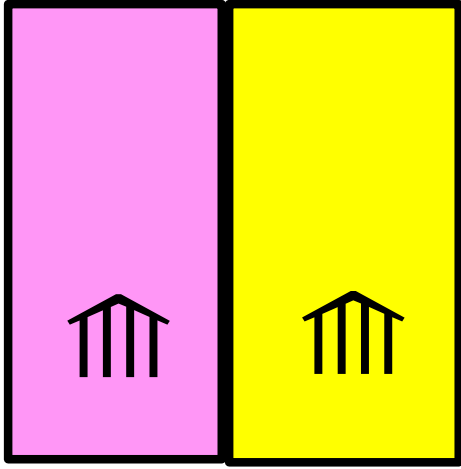
Mitch has a demolition business. He was hired by Ajax to demolish a shed on Pinkacre (left). “I sure don’t want to trespass,” Mitch said. So Ajax signed a written contract that provided, “I, Ajax, hereby represent, warrant, and certify that Mitch has permission to demolish the shed on Pinkacre, and I agree to indemnify Mitch for any tort claim that may result from Mitch undertaking the activity that is the subject of this contract.” Mitch thought everything was on the up and up. He demolished the Pinkacre shed on purpose, using his bulldozer. It turns out Ajax had no lawful authority to authorize the demolition of the shed, which, along with the rest of Pinkacre, was owned by Polly.

Is there requisite intent for trespass to land in a suit brought by Polly against Mitch?

A. Yes

B. No

Intent problem: Mitch's mistake #1



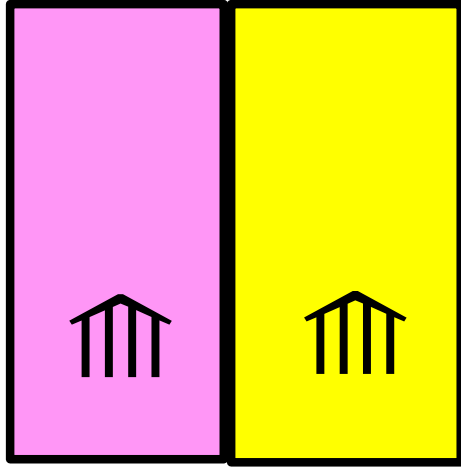
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Is there requisite intent for trespass to land in a suit brought by Polly against Mitch?

A. Yes ←

B. No

Intent problem: Mitch's mistake #2

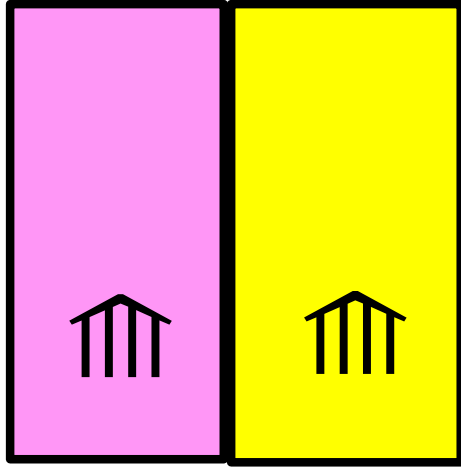


After demolishing the shed on Pinkacre, Mitch carelessly left the engine running on his bulldozer. The transmission slipped (because of Mitch's negligent maintenance of the machine), and the bulldozer moved over to Goldacre (right), owned by Golda, where it destroyed Golda's shed.

Is there requisite intent for trespass to land in a suit brought by Golda against Mitch?

- A. Yes
- B. No

Intent problem: Mitch's mistake #2



After demolishing the shed on Pinkacre, Mitch carelessly left the engine running on his bulldozer. The transmission slipped (because of Mitch's negligent maintenance of the machine), and the bulldozer moved over to Goldacre (right), owned by Golda, where it destroyed Golda's shed.

Is there requisite intent for trespass to land in a suit brought by Golda against Mitch?

A. Yes

B. No ←

Do you feel like you have the concept for intent for trespass to land?

A. Yes

B. No