

TORTS OUTLINE

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Breach

Once we have found that the defendant had a duty to the plaintiff, we need to determine whether the defendant breached that duty. Breach is a failure to conform to a particular standard of care. To determine whether the defendant breached the duty, we must determine what the standard of care was, and whether the defendant conformed to that standard of care. The primary measures of standard of care are: the reasonable person, the Learned Hand formula (B<PL), customs, and statutes.

The Standard of Care

I. Learned Hand Formula (B<PL)

- A. According to the Learned Hand Formula, liability for negligence due to failure to take safety precautions exists if the burden of taking such precautions is less than the probability of injury multiplied by the gravity of any resulting injury.
 - 1. $Burden < Probability * Loss$
- B. Used in *economic* situations
- C. Policy considerations; lack of deterrence and ignores morality. Just focuses on money and juries don't like that. Doesn't take into consideration emotional costs.

II. The Reasonable Person

- A. The reasonable person test considers what a *reasonable person* of ordinary prudence would have done *under the same circumstances*.
 - 1. The reasonable person is an *objective* standard – the reasonable person usually does not change according to the attributes or state of mind of the defendant unless one of the exceptions apply. Absent one of the exceptions, the reasonable person is a sane person of average intelligence.
 - 2. In cases of *emergency*, the reasonable person has less time to deliberate, and therefore has a little more leeway, unless of course, the emergency was *caused* by the defendant.
 - 3. The standard of care is a question for the *jury*. *Pohora*.
 - a. When the plaintiff makes a sufficient case that the defendant could have violated the SOC, then summary judgment is inappropriate, and the case is best left for the jury to determine whether the defendant conformed to the SOC. *Andrews*.
- B. **Precautionary Measures:** reasonable care does not require an abundance of caution.
 - 1. A person who takes *reasonable* precautions against *foreseeable* dangers may not be held liable in negligence for injuries caused by *extraordinary* circumstances. *Adams*.

Torts Outline 2005

Christina Angelopoulos



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Risk Management in Social Work: Oxford Bibliographies Online Research Guide Oxford University Press, 2010-05-01 This ebook is a selective guide designed to help scholars and students of social work find reliable sources of information by directing them to the best available scholarly materials in whatever form or format they appear from books chapters and journal articles to online archives electronic data sets and blogs Written by a leading international authority on the subject the ebook provides bibliographic information supported by direct recommendations about which sources to consult and editorial commentary to make it clear how the cited sources are interrelated related A reader will discover for instance the most reliable introductions and overviews to the topic and the most important publications on various areas of scholarly interest within this topic In social work as in other disciplines researchers at all levels are drowning in potentially useful scholarly information and this guide has been created as a tool for cutting through that material to find the exact source you need This ebook is a static version of an article from Oxford Bibliographies Online Social Work a dynamic continuously updated online resource designed to provide authoritative guidance through scholarship and other materials relevant to the study and practice of social work Oxford Bibliographies Online covers most subject disciplines within the social science and humanities for more information visit [www aboutobo com](http://www.aboutobo.com)

Law of Toxic Torts Michael Dore, 1987

MLRC 50-state Survey, 2009

Rights of Personality in Scots Law Niall Whitty, 2014-02-08 Explores the law on rights of personality in Scotland compared to other jurisdictions Taking a comparative perspective this book explores the trends and issues affecting the law on rights of personality in jurisdictions drawn from the families of common law civilian law and mixed legal systems The main focus is on the private law of personality rights with due regard paid to the impact of constitutional legislation and other instruments protecting human rights

European Intermediary Liability in Copyright: A Tort-Based Analysis Christina Angelopoulos, 2016-09-15 In step with its rapid progress to the centre of modern social political and economic life the internet has proven a convenient vehicle for the commission of unprecedented levels of copyright infringement Given the virtually insurmountable obstacles to successful pursuit of actual perpetrators it has become common for intermediaries providers of internet related infrastructure and services to face liability as accessories Despite advances in policy at the European level the law in this area remains far from consistently applicable This is the first book to locate and clarify the substantive rules of European intermediary accessory liability in copyright and to formulate harmonised European norms to govern this complicated topic With a detailed comparative analysis of relevant regimes in three major Member State jurisdictions England France and Germany the author elucidates the relationship between these rules and the demands of EU law on fundamental rights and the principles of European tort law She clearly presents the interrelations between such areas as the following accessory liability in tort joint tortfeasance European fault based liability fault causation defences negligence negligence balancing rights based or utility based Germany s disturbance liability St rerhaftung fair balance in human rights

end users fundamental rights The European Commission s 2015 Communication on a Digital Single Market Strategy for Europe The E Commerce Directive and other relevant provisions Safe harbours mere conduit caching hosting Intermediary actions monitoring filtering blocking removal of infringing content and application of remedies damages and injunctions The strong points of each national system are highlighted as are the commonalities between them and the author uses these to build a proposed harmonised European framework for intermediary liability for copyright infringement She concludes with suggestions for the future possible integration of the proposed framework into EU law The issue of the liability of internet intermediaries for third party copyright infringement has entered into the political agenda across the globe giving rise to one of the most complex contentious and fascinating debates in modern copyright law This book offers an opportunity for a re conceptualisation and rationalisation of the applicable law in a way which additionally better accounts for the cross border nature of the internet It will be of inestimable value to many interested parties lawyers internet intermediaries NGOs

Global Issues in Tort Law Julie A. Davies, Paul T. Hayden, 2008 This title covers several facets of tort law from a global perspective including the tort law of other countries as compared to U S law U S statutes with an international tort law aspect such as the Alien Tort Statute the Anti Terrorism Act and the Foreign Sovereign Immunities Act and international tort treaties such as the Warsaw Convention The materials will add depth to your students views of the U S tort system and the larger legal world While intended as a supplement in torts courses the book is also suitable for a stand alone course Wiley CPA Examination Review, Outlines and Study Guides Patrick R. Delaney, O. Ray Whittington, 2009-06-02 Everything today s CPA candidates need to pass the CPA exam Published annually this comprehensive two volume paperback reviews all four parts of the CPA exam Many of the questions are taken directly from previous CPA exams Volume I contains all study guides and outlines while Volume II contains all problem solutions With 2 700 multiple choice questions and more than 75 simulations these study guides provide all the information candidates need to master in order to pass the computerized Uniform CPA Examination O Ray Whittington PhD CPA CMA CIA Chicago IL is the Ledger Quill Director of the School of Accountancy at DePaul University and vice chair of the Auditing Standards Board of the AICPA His previous positions were the Director of the School of Accountancy at San Diego State University and the Director of Auditing Research for the American Institute of Certified Public Accountants AICPA Patrick R Delaney PhD CPA was the Arthur Andersen LLP Alumni Professor of Accountancy and Department Chair at Northern Illinois University and was author of Audit Sampling An Introduction Fifth Edition 0 471 37590 X **Confirmation Hearings on Federal Appointments** United States. Congress. Senate. Committee on the Judiciary, 2011 National Guide to Educational Credit for Training Programs 2004-2005 Jo Ann Robinson, Troy Polite, Nancy Musick, 2004 For more than 25 years this guide has been the trusted source of information on thousands of educational courses offered by business labor unions schools training suppliers professional and voluntary associations and

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