Duty to Act

exercise reasonable care

A duty to exercise reasonable care

Elements of a Tort Claim

1._____

2._____

3._____

4._____

Elements of a Tort Claim

- 1. Duty
- 2. Breach
- 3. Causation
- 4. Harm

General Rule for Duty:

IF your actions create a risk of physical harm

THEN you have a duty to exercise reasonable care

General Rule for Affirmative Duty:

IF your actions do not create a risk of physical harm

THEN you have no duty to protect or to rescue

With some exceptions:

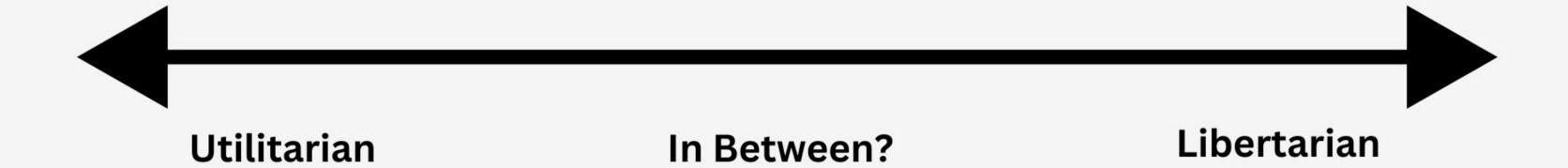
Special relationship

Undertakings

Non-negligent injury

Non-negligent creation of risk

Statutes



Harper v. Herman

Exceptions to No Affirmative Duty

Special relationship

Undertakings

Non-negligent injury

Non-negligent creation of risk

Statutes

Sidenote: Don't write like this

On Sunday, August 9, 1986, Jeffrey Harper ("Harper") was one of four guests on Theodor Herman's ("Herman") 26-foot boat...

Because good writers don't write like that.

Call me Ishmael ("Ishmael").

It is a truth universally acknowledged, that a single man ("man") in possession of a good fortune ("fortune"), must be in want of a wife ("wife").

As Gregor Samsa ("Samsa") awoke one morning on Sunday, August 9, 1986 from uneasy dreams he found himself transformed in his bed into a gigantic insect ("cockroach").

And why don't good writers write like that?

Because they treat the reader like a big, golden baby.



Farwell v. Keaton

Exceptions to No Affirmative Duty

Special relationship

Undertakings

Non-negligent injury

Non-negligent creation of risk

Statutes

Randi W. v. Muroc Joint Unified School District

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Tarasoff v. Regents of the University of California

Rowland Factors

- foreseeability of harm
- certainty of plaintiff's injury
- connection between defendant's conduct and plaintiff's injury
- moral blame
- policy of preventing harm
- burden to defendant
- consequences to community
- availability of insurance