

Welcome to the Spring Semester!

Midterm Review

Semester Overview

Negligence

--- Causation

----- Factual Causation

----- Proximate Cause

--- Defenses

----- Contributory & Comparative Negligence

----- Assumption of Risk

Semester Overview

Strict Liability

- Traditional view
- Products liability
 - Manufacturing defects
 - Design defects
 - Warnings
 - Defenses

Semester Overview

Intentional Torts

- Types of intentional tort
- Defenses

Alternatives to Tort

Causation

Two parts:

1. Factual cause

2. Proximate cause

Factual causation is usually straightforward

Adams v. Bullock

--- Kid gets electrocuted by trolley line

Martin v. Herzog

--- Car accident, driving without headlights turned on

Byrne v. Boadle

--- Flour barrel falls on plaintiff's head

Reynolds v. Hicks

--- Underage kid gets drunk at wedding and gets in car accident

Stubbs v. City of Rochester

What about two possible causes?

Two different tests for factual causation

1. “But for”

2. Substantial factor

California Jury Instructions

A substantial factor in causing harm is a factor that a reasonable person would consider to have contributed to the harm. It must be more than a remote or trivial factor. It does not have to be the only cause of the harm.

[Conduct is not a substantial factor in causing harm if the same harm would have occurred without that conduct.]

Zuchowicz v. United States

Four typical scenarios in which factual cause may be contested

1. Toxic exposure
2. No idea what happened
3. Know what happened, but don't know that it wouldn't have happened if defendant had behaved reasonably
4. Know what happened, but don't know who to blame