

Workers' Compensation

Why are we learning this shit?

How do alternatives to tort teach us about tort?

1. They influence tort litigation
2. They affect substantive doctrine
3. Alternatives to tort help us to understand assumptions and latent choices within the common law of tort

Pavia v. State Farm

Hypos on Impact of Insurance

First party insurance for plaintiff in
Vincent v. Lake Erie Transport Co.

Liability insurance for defendants in
Randi W. v. Muroc Joint Unified School District

Workers' Compensation

The “Unholy Trinity” of Common Law Defenses

1. Fellow servant rule
2. Contributory negligence
3. Assumption of risk

The Bargain of Workers' Compensation

No fault

and

Exclusive remedy

Workers' Compensation Requirements

Only compensates for work-related injuries

Benefits include:

- Medical coverage
- Percent of lost wages
- Vocational rehabilitation
- Survivor benefits

Employers must buy workers' comp insurance

When would an employee not file a workers' comp claim?

Injury didn't occur while in scope of employment

Injury resulted from employer's intentional tort

Non-disabling injury

Employee was not an employee but an independent contractor

Third-party claims

Rule: Employee can file a workers' compensation claim against their employer but workers compensation' does not cover third parties.

Hypothetical:

Gladys Escola is a waitress. While serving a Coca-Cola beverage at work, the bottle explodes in her hand, injuring her hand. She needs surgery and will be unable to work for months.

What's your legal advice for her?

Big Picture: Workers' Comp vs. Tort Law

Deterrence

Compensation

Administrative Cost

Equity