

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: “The Swinging Wire and Electric Trolley”

Martin v. Herzog: “The Buggy Without Lights”

Byrne v. Boadle: “The Falling Flour Barrel”

Reynolds v. Hicks: “Underage Drinking and Driving”

Stubbs v. City of Rochester

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