

Introduction to Negligence

But first...

Hershovitz v. Speedy Pete's Pizza Pies

- Arguments
- Reflections
- Questions

Outlining

Goals for reading cases

1. Grasp the internal logic and mechanics of the case.
2. Synthesize within a broader context.

Goals for outlining

Creating and studying an outline should help you to:

1. Spot issues on the exam
2. Resolve issues methodically and comprehensively

Outline for damages

Negligence as a Cause of Action

Plaintiff must prove four elements:

1. Duty

2. Breach

3. Causation

4. Harm

Negligence as a Concept

Relates to the elements of duty and breach

The “fault” principle

Defined as a failure to exercise “reasonable care”

California Negligence Jury Instruction:

Negligence is the doing of something which a reasonably prudent person would not do, or the failure to do something which a reasonably prudent person would do, under circumstances similar to those shown by the evidence.

It is the failure to use ordinary or reasonable care.

Ordinary or reasonable care is that care which persons of ordinary prudence would use in order to avoid injury to themselves or others under circumstances similar to those shown by the evidence.

- 1. What is reasonable care?**
- 2. Who is this reasonable person?**

Adams v. Bullock

1. Procedural posture
2. Legal question(s)
3. Relevant facts
4. Holding
5. Reasoning(s) behind the holding

Braun v. Buffalo Gen. El. Co.

1. Procedural posture
2. Legal question(s)
3. Relevant facts
4. Holding
5. Reasoning(s) behind the holding

For next class...

Come prepared to:

- argue for the opposite holding in *Adams* and *Braun*
- with foreseeability as the reasoning behind the holding