

theme: Colin

autoscale: true

slidenumbers: true

header: #373737, alignment(left), line-height(150%), text-scale(1.0), ITC Galliard Pro Bold

Footer:

Duty to Third Parties

&

Policy Bases for No Duty

Should we write like this?

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

We treat our reader like a big, golden baby.

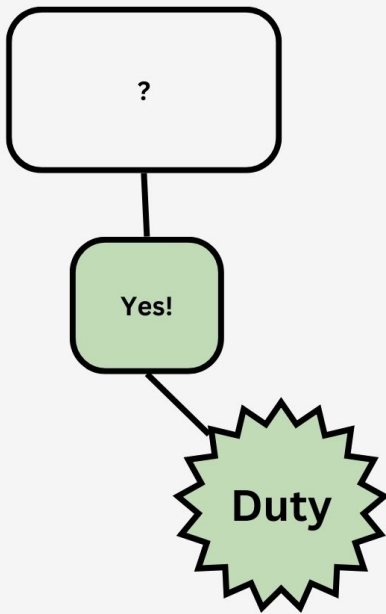




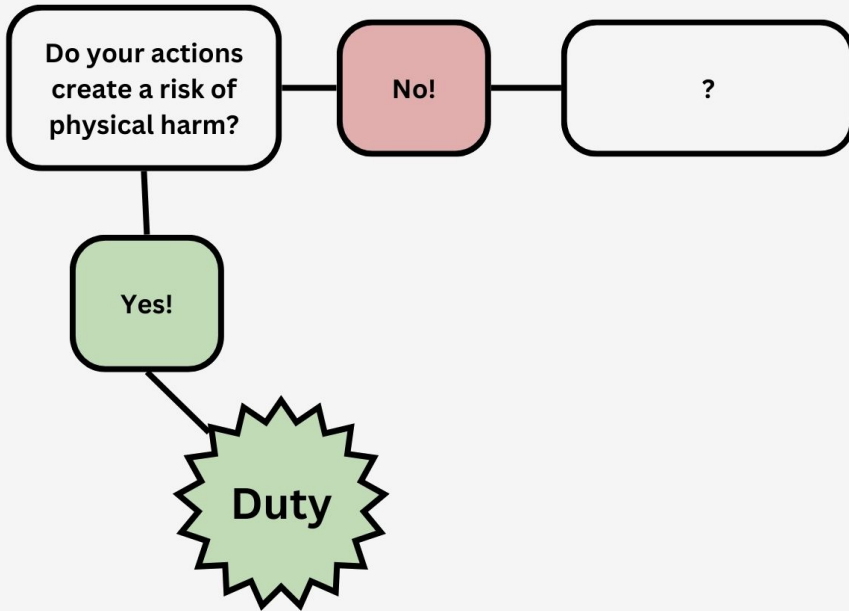
A duty to

exercise reasonable care

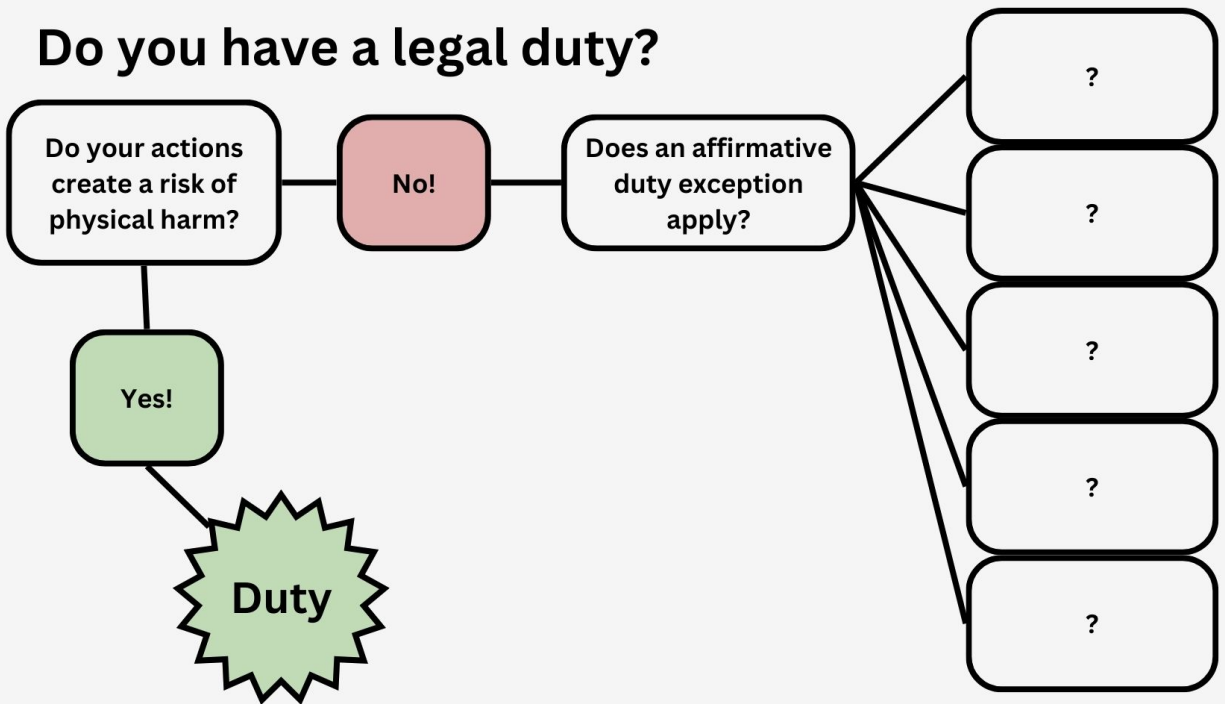
Do you have a legal duty?



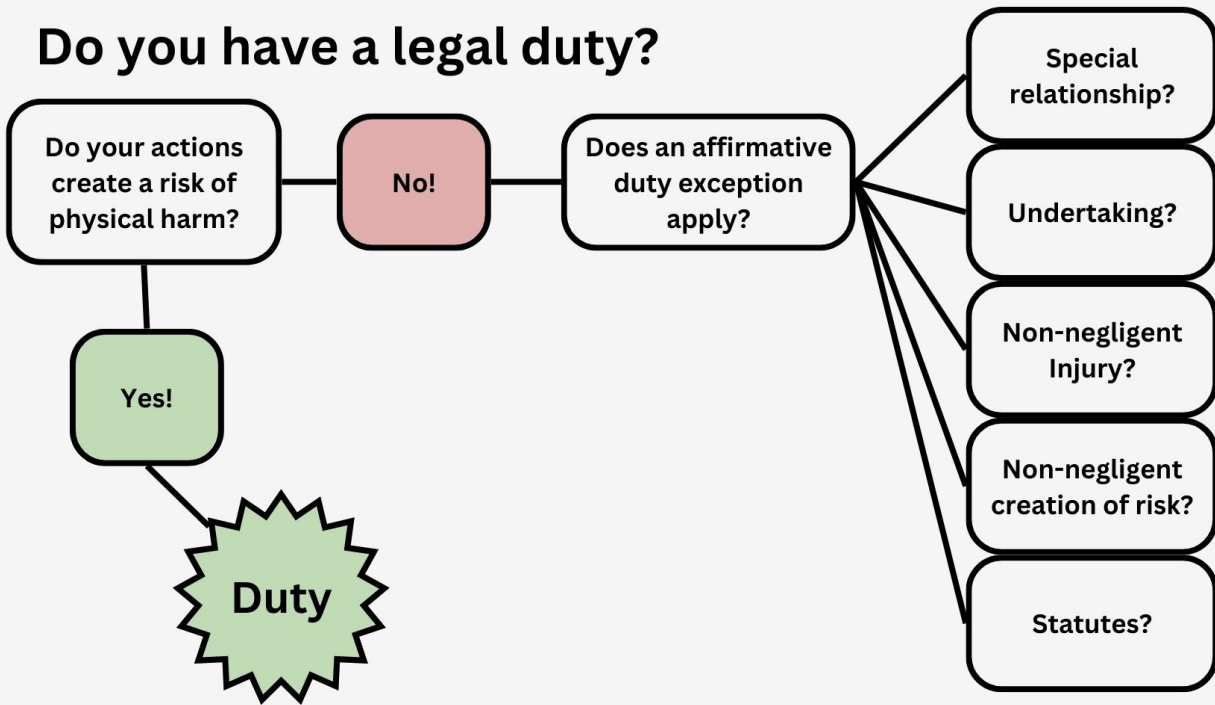
Do you have a legal duty?



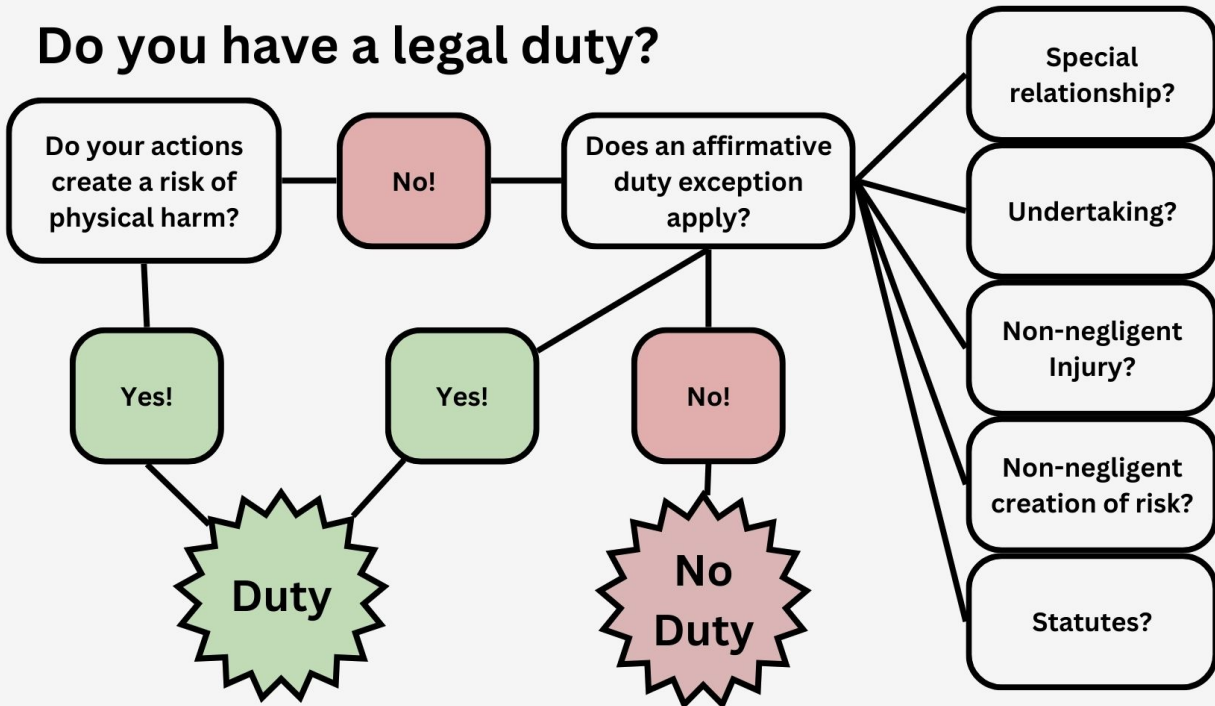
Do you have a legal duty?



Do you have a legal duty?



Do you have a legal duty?



[fit] Tarasoff v. Regents of the University of California

“The Psychiatrist Who Didn’t Warn the Murder Victim”

[fit] Randi W. v. Muroc Joint Unified School District

“The Alleged Sexual Predator’s Recommenders”

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
-

Strauss v. Belle Realty

Third Restatement

When determining that no legal duty exists for reasons of public policy, courts should use “categorical, bright-line rules of law applicable to a general class of cases.”

Two Closing Thoughts

1. Crushing liability has not aged well.
 2. Policy justifications \neq individual autonomy concerns
-

Reynolds v. Hicks

Negligence Per Se

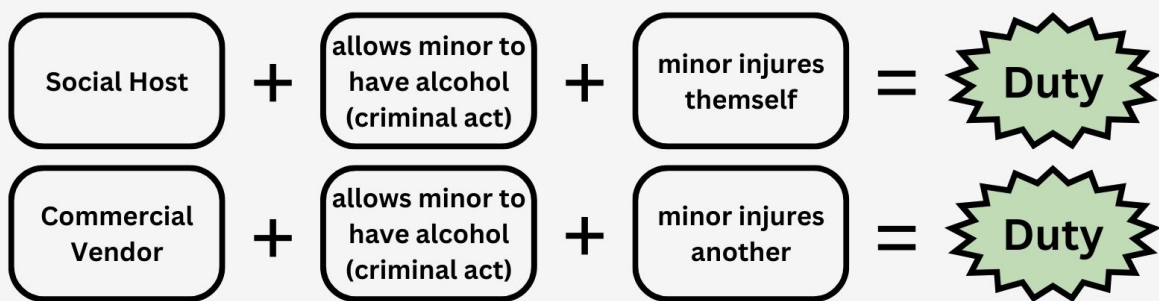
Remember Martin v. Herzog?

Negligence Per Se

Under RCW 66.44.270(1) it is a crime to:

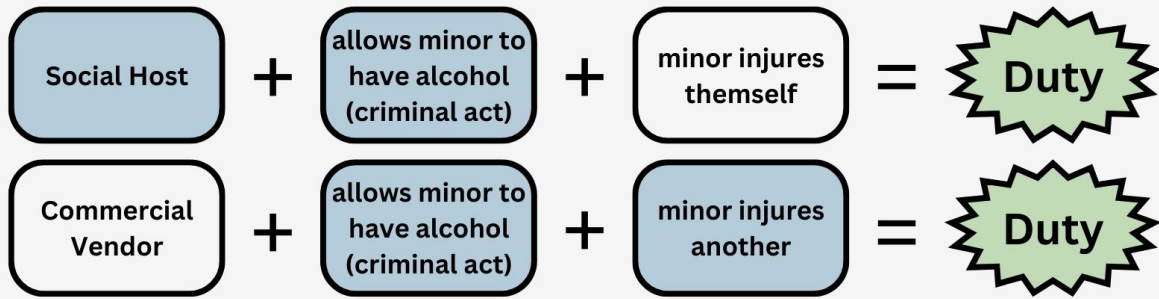
give or otherwise supply liquor to any person under the age of twenty-one years or permit any person under that age to consume liquor on his or her premises or on any premises under his or her control.

Precedent:

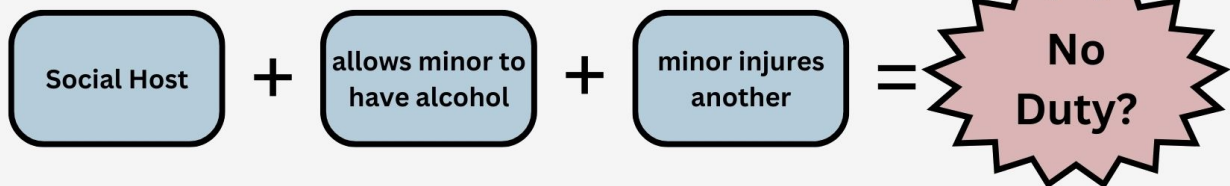


Current Case:

Precedent:



Current Case:



What the heck?

Two Reasons

1. Legal
2. Policy