

Tort Vicarious Liability

1677 words (7 pages) Law Essay

2nd Jul 2019 [Tort Law Reference this](#)

'It is entirely appropriate that all businesses be responsible for the torts of their employees'.

Vicarious liability is where one person is held liable for the torts of another, even though that person did not commit the act itself. It is therefore a form of strict liability (in that the defendant is not at fault). The most common form of vicarious liability is when employers are held liable for the torts of their employees that are committed during the course of employment. The issue of vicarious liability can be seen to be unjust in that someone who is not at fault can be held liable.

Vicarious Liability Case Summaries

In order to establish liability on the part of the employer, several requirements must be satisfied. Firstly, the wrongdoer must be an employee (as opposed to an independent contractor), the employee must have committed a tort and the tort must have been committed in the course of employment.

Over the years, the courts have been highly inconsistent in relation to the decisions they have made in this area of tort law, making it difficult to establish whether the use of vicarious liability is entirely appropriate.

One problem in particular the courts have had is in determining what constitutes the classification of an employee. This is partly due to there being so many different employment relationships. One of the early tests to determine this issue was the Control Test which asked whether the 'Master' had the right to control what was done and the way it was done. However, this test was seen to be inappropriate, except perhaps in cases of borrowed workers, as in *Merseyside Docks & Harbour Board v Coggins and Griffiths*. The courts then recognised that a single test was not enough to determine employment status so the courts developed a multiple test in *Ready Mixed Concrete v Minister of Pensions*, whereby all factors in the relationship should be considered. All tests are open to interpretation and there is no conclusive or definitive test; in the case of *Hall v Lorimer* the Court of Appeal said no single test is absolute.

Vicarious Liability In Tort Vicarious Liability In Tort

Thomas Baty



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Vicarious Liability in Tort Paula Giliker, 2010-10-28 Vicarious liability is controversial a principle of strict liability in an area dominated by fault based liability By making an innocent party pay compensation for the torts of another it can also appear unjust Yet it is a principle found in all Western legal systems be they civil law or common law Despite uncertainty as to its justifications it is accepted as necessary In our modern global economy we are unlikely to understand its meaning and rationale through study of one legal system alone Using her considerable experience as a comparative tort lawyer Paula Giliker examines the principle of vicarious liability or to a civil lawyer liability for the acts of others in England and Wales Australia Canada France and Germany and with reference to legal systems in countries such as the United States New Zealand and Spain

Vicarious Liability Thomas Baty, 1916 A short history of the liability of employers principals partners associations and trade union members with a chapter on the laws of Scotland and foreign states T p

Vicarious Liability in the Common Law World Paula Giliker, 2022-10-20 This book is the one place to find unprecedented access to case law doctrinal debates and comparative reflections on vicarious liability from across the common law world The doctrine of vicarious liability that is strict liability for the torts of others represents one of the most controversial areas of tort law Unsurprisingly it is a doctrine that has been discussed in the highest courts of common law jurisdictions This collection responds to uncertainties as to the operation of vicarious liability in twenty first century tort law by looking at key common law jurisdictions and asking expert scholars to set out and critically analyse the law identifying factors influencing change and the extent to which case law from other common law jurisdictions has been influential The jurisdictions covered include Canada England and Wales Australia Singapore Ireland Hong Kong and New Zealand In providing critical analysis of this important topic it will be essential and compelling reading for all scholars of tort law and practitioners working in this field

Unification of Tort Law Francesco Donato Busnelli, 2003-01-01 Covers various European countries Israel South Africa and the United States

Vicarious Liability Anthony Gray (Law teacher), 2019 The scope of vicarious liability has significantly expanded since its original conception Today employers are being found liable for actions of employees that they did not authorise and never would have authorised if asked They are being held liable for an employee s criminal activity In the related strict liability field of non delegable duties they are being held liable for wrongdoing of independent contractors Notions of strict liability have grown increasingly isolated in the law of tort given the exponential growth in the tort of negligence They require intellectual justification Such a justification has proven to be elusive and largely unsatisfactory in relation to vicarious liability and to concepts of non delegable duty The law of three jurisdictions studied has now apparently embraced the enterprise risk theory to rationalise the imposition of vicarious liability This book subjects this theory to strong critique by arguing that it has many weaknesses which the courts should acknowledge It suggests that a rationalisation of the liability of an employer for the actions of an employee lies in more traditional legal doctrine which would serve to narrow

the circumstances in which an employer is legally liable for a wrong committed by an employee Bloomsbury Publishing
Vicarious Liability in the Law of Torts P. S. Atiyah, 1967 Tort Law and Economics Michael Faure, 2009-01-01 The central goal of this book is to provide a state of the art overview of the literature with respect to the economic analysis of tort law It sure meets the challenge offering with great expertise a comprehensive presentation of tort law in both economic and comparative perspectives The clarity of the text unusual in the law and economics literature makes the book accessible to a broad readership of economists with a limited legal background and lawyers with limited economic skills Olivier Moreteau Louisiana State University US Tort Law and Economics ed Michael Faure provides a highly useful economic overview of the most important topics of tort law The authors clearly show the main developments of the discussion examining the results of recent studies and stating their own opinions Detailed bibliographies are included The volume has to be warmly recommended to friends and foes of economic analysis who are provided with a comprehensive update in this field while also indicating areas which critics have to focus on Helmut Koziol European Centre of Tort and Insurance Law Austria This volume provides a state of the art overview of the literature on the economic analysis of tort law In sixteen chapters the specialist authors guide the reader through the often vast literature in each domain providing a balanced and comprehensive summary Particular attention is paid to the evolution of the field further refinements to economic models and relevant conclusions and lessons for the policymaker Tort Law and Economics is part of the Encyclopedia of Law and Economics and enables readers some not familiar with law and economics to obtain an insight in the relevant economic literature concerning tort law and economics This book will be of interest to lawyers and economists practitioners and academics interested in accident law tort law insurance and regulation It will also appeal to students in economic analysis of law and policymakers working on prevention of accidents tort law or compensation of accident victims , **Research Handbook on the Economics of Torts** Jennifer Arlen, 2013-11-29 Focusing on issues of vital importance to those seeking to understand and reform the tort system this volume takes a multi disciplinary approach including theoretical economic analysis empirical analysis socio economic analysis and behavioral anal *Lunney & Oliphant's Tort Law* Donal Nolan, Ken Oliphant, 2023 The seventh edition provides a complete authoritative guide to the subject The book combines clear overviews of the law with well chosen extracts from cases and materials supported by insightful commentary

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Table of Contents Vicarious Liability In Tort Vicarious Liability In Tort

1. Understanding the eBook Vicarious Liability In Tort Vicarious Liability In Tort
 - The Rise of Digital Reading Vicarious Liability In Tort Vicarious Liability In Tort
 - Advantages of eBooks Over Traditional Books
2. Identifying Vicarious Liability In Tort Vicarious Liability In Tort
 - Exploring Different Genres
 - Considering Fiction vs. Non-Fiction
 - Determining Your Reading Goals
3. Choosing the Right eBook Platform
 - Popular eBook Platforms
 - Features to Look for in an Vicarious Liability In Tort Vicarious Liability In Tort
 - User-Friendly Interface
4. Exploring eBook Recommendations from Vicarious Liability In Tort Vicarious Liability In Tort
 - Personalized Recommendations
 - Vicarious Liability In Tort Vicarious Liability In Tort User Reviews and Ratings
 - Vicarious Liability In Tort Vicarious Liability In Tort and Bestseller Lists

5. Accessing Vicarious Liability In Tort Vicarious Liability In Tort Free and Paid eBooks
 - Vicarious Liability In Tort Vicarious Liability In Tort Public Domain eBooks
 - Vicarious Liability In Tort Vicarious Liability In Tort eBook Subscription Services
 - Vicarious Liability In Tort Vicarious Liability In Tort Budget-Friendly Options
6. Navigating Vicarious Liability In Tort Vicarious Liability In Tort eBook Formats
 - ePub, PDF, MOBI, and More
 - Vicarious Liability In Tort Vicarious Liability In Tort Compatibility with Devices
 - Vicarious Liability In Tort Vicarious Liability In Tort Enhanced eBook Features
7. Enhancing Your Reading Experience
 - Adjustable Fonts and Text Sizes of Vicarious Liability In Tort Vicarious Liability In Tort
 - Highlighting and Note-Taking Vicarious Liability In Tort Vicarious Liability In Tort
 - Interactive Elements Vicarious Liability In Tort Vicarious Liability In Tort
8. Staying Engaged with Vicarious Liability In Tort Vicarious Liability In Tort
 - Joining Online Reading Communities
 - Participating in Virtual Book Clubs
 - Following Authors and Publishers Vicarious Liability In Tort Vicarious Liability In Tort
9. Balancing eBooks and Physical Books Vicarious Liability In Tort Vicarious Liability In Tort
 - Benefits of a Digital Library
 - Creating a Diverse Reading Collection Vicarious Liability In Tort Vicarious Liability In Tort
10. Overcoming Reading Challenges
 - Dealing with Digital Eye Strain
 - Minimizing Distractions
 - Managing Screen Time
11. Cultivating a Reading Routine Vicarious Liability In Tort Vicarious Liability In Tort
 - Setting Reading Goals Vicarious Liability In Tort Vicarious Liability In Tort
 - Carving Out Dedicated Reading Time
12. Sourcing Reliable Information of Vicarious Liability In Tort Vicarious Liability In Tort
 - Fact-Checking eBook Content of Vicarious Liability In Tort Vicarious Liability In Tort
 - Distinguishing Credible Sources
13. Promoting Lifelong Learning

- Utilizing eBooks for Skill Development
- Exploring Educational eBooks

14. Embracing eBook Trends

- Integration of Multimedia Elements
- Interactive and Gamified eBooks

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