

Tort Vicarious Liability

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'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

Paula Giliker



Vicarious Liability In Tort Vicarious Liability In Tort:

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 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

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

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 Vicarious Liability in Tort Claire McIvor, 2015-09-01 This book aims to provide a comprehensive and up to date critical account of the much used but little understood doctrine of no fault employer liability for the torts of employees Starting from the premise that the current law on vicarious liability is both unprincipled and theoretically incoherent this book deconstructs the normative foundations of the doctrine of vicarious liability and seeks to advance a sound theoretical account of its nature purpose and functions Using this theoretical account as an analytical framework the book proceeds to critically evaluate each of the central features of the doctrine with individual chapters on the employee independent contractor distinction the course of employment requirement and the need for a tort to have been committed The relationship between vicarious liability and other rules of attribution such as joint and several liability and the doctrine of agency are also explored in an attempt to address current conceptual confusions surrounding the notion of liability for the acts of others Third Party Liability in Tort Claire McIvor, 2006-07-05 Non vicarious liability for the acts of third parties is distinguishable from the traditional doctrine of vicarious liability insofar as it relates to a form of primary liability predicated upon the personal fault of the defendant More conveniently termed third party liability it is a novel category of tortious liability that has evolved from a collection of disparate and isolated judicial decisions setting out on an entirely ad hoc basis individualised exceptions to the entrenched common law rules against liability for omissions and liability for the acts of others As a result of the improvised nature of its development the current law on third party liability is unstructured unprincipled and incoherent The specific purpose of this book is to seek out the foundational principles governing the various existing instances of third party liability with a view to identifying a coherent legal basis upon which such liability can develop in the future **The Evolution from Strict Liability to Fault in the Law of Torts** Anthony Gray, 2021-02-25 Gradually the law of tort has shifted away from a strict liability approach to one where fault predominates This book charts important case law documenting this shift It seeks to understand how and why it occurred Given that the *Rylands v Fletcher* decision is typically seen as a prime exemplar of strict liability it focusses particularly on that case as part of the historical development of tort law It considers the intellectual arguments made in favour of strict liability and for fault based liability Having done so it then focusses on particular areas of the law of tort including nuisance defamation and trespass It is somewhat anomalous that though most would view these as examples of torts of strict liability fault considerations have become prominent in their application This presents an uneasy compromise where torts that are notionally strict in nature are infused with fault considerations often through exceptions or defences This book advocates for further development in the law of tort to better reflect a primarily fault based approach to liability at least in the common law This would make the law of tort more coherent *Reconceptualising Strict Liability for the Tort of Another* Christine Beuermann, 2019-11-28 This book adopts a novel approach to resolving the present difficulties experienced by the courts in

imposing strict liability for the tort of another. It looks beyond the traditional classifications of vicarious liability and liability for breach of a non delegable duty of care and for the first time seeks to explain all instances of strict liability for the tort of another in terms of the various relationships in which the courts impose such liability. The book shows that despite appearances there is a unifying feature to the various relationships in which the courts currently impose strict liability for the tort of another. That feature is authority. Whenever the courts impose strict liability for the tort of another the defendant is either vested with authority over the person who committed a tort against the claimant or has vested or conferred a form of authority upon that person in respect of the claimant. This book uses this feature of authority to construct a new expositive framework within which strict liability for the tort of another can be understood.

Unification of Tort Law W. H. van Boom, 2005-01-01. Covers various European countries Israel South Africa and the United States.

The Law of Torts Philip H. Osborne, 2007. This book provides a concise and accessible introduction to the essential principles of tort law and the social policies that support them. Professor Osborne reviews the foundations characteristics and objectives of tort law generally with specific discussion of the central concepts of negligence. The book includes a glossary of terms.

Vicarious Liability. Ethics and Social Responsibility Angshuman Banerjee, 2016-04-21. Essay from the year 2015 in the subject Law Civil Private Industrial Labour grade 4.00 course Ethics and Social Responsibility SBES 601 language English abstract. In a world where impulse governs the judgment of human beings it is not unusual to enter situations that exhibit mild to severe conflicts of interest motives or perspectives. As such it is of utmost importance to have amicable ways to settle such disputes while minimizing their destructive effects on the individual's organization's and society. An important aspect of workplace dispute is the concept of vicarious liability. Simply put it is a doctrine that holds the employer responsible for the wrong acts of the employee's. In other words one party may be held liable or responsible for the unlawful acts of the other. However as always legal terms are governed and subjected by cases depending on the scenario it is important to effectively distinguish the extent to which the doctrine could be applied without amendment. Apart from this the rules of vicarious liability differ from country to country as per the local laws of the nation state. Moreover there are a number of situations where it isn't clearly defined as to who or which party is deemed responsible for the wrong action the doer or the party bound to the former in a legal relationship. Also there is this issue of unintentional wrong doings torts and intentional wrong doings criminal acts. For unintentional wrong doings torts the compensation of the victim is prioritized but in case of a criminal act the punishment of the responsible parties is sought. In the end the question comes up as who is responsible for the actions and who should be the one to compensate the victim. In light of this poised question this brief essay will attempt to shed some light on the matter to reduce its complicated nature for the ease of understanding. It will begin with introducing the concept of vicarious liability in some detail then differentiate between an intentional and unintentional wrong doing further putting it in the context of employee employer and contractor client muqawala relationships. Then it will cite some cases to explain the exceptions if they

exist to the proposed doctrine and finally it will conclude with the amendments adopted in the local i.e. U A E law and how they can be compared to their American and British counterparts

Emerging Issues in Tort Law Jason W Neyers, Erika Chamberlain, Stephen G.A. Pitel, 2007-05-29 In this book articles by leading tort scholars from Australia Canada Hong Kong Israel New Zealand the United Kingdom and the United States deal with important theoretical and practical issues that are emerging in the law of torts The articles analyse recent leading developments in areas such as economic negligence causation vicarious liability non delegable duty breach of statutory duty intentional torts damages and tort law in the family They provide a foretaste of the issues that will face tort law in the near future and offer critical viewpoints that should not go unheeded With its rich breadth of contributors and topics *Emerging Issues in Tort Law* will be highly useful to lawyers judges and academics across the common law world Contributors Elizabeth Adjin Tettey Kumaralingam Amirthalingam Peter Benson Vaughan Black Peter Cane Erika Chamberlain Israel Gilead Paula Giliker Rick Glofcheski Lewis N Klar QC Michael A Jones Richard Lewis John Murphy Jason W Neyers Ken Oliphant David F Partlett Stephen GA Pitel Denise Reaume Robert H Stevens Andrew Tettenborn Stephen Todd Shauna van Praagh Stephen Waddams David R Wingfield Richard W Wright

Law Express: Tort Law (Revision Guide) Emily Finch, Stefan Fafinski, 2014-08-01 The Law Express series is designed to help you revise effectively This book is your guide to understanding essential concepts remembering and applying key legislation and making your answers stand out

Vicarious Liability in the Law of Tort Patrick Selim Atiyah, 1967

Tort Law Jenny Steele, 2017 Tort Law offers a stimulating introduction to the subject Jenny Steele provides a sound analysis of the key principles before exploring a wide range of critical perspectives through an extensive selection of cases and materials

California. Court of Appeal (2nd Appellate District). Records and Briefs California (State)., Tort Law in Germany Oliver Rieckers, Simon Gerdemann, Andreas Seidel, 2023-12-18 Derived from the renowned multi volume International Encyclopaedia of Laws this book provides ready access to how the legal dimension of prevention against harm and loss allocation is treated in Germany This traditional branch of law not only tackles questions which concern every lawyer whatever his legal expertise but also concerns each person's most fundamental rights on a worldwide scale Following a general introduction that probes the distinction between tort and crime and the relationship between tort and contract the monograph describes how the concepts of fault and unlawfulness and of duty of care and negligence are dealt with in both the legislature and the courts The book then proceeds to cover specific cases of liability such as professional liability liability of public bodies abuse of rights injury to reputation and privacy vicarious liability liability of parents and teachers liability for handicapped persons product liability environmental liability and liability connected with road and traffic accidents Principles of causation grounds of justification limitations on recovery assessment of damages and compensation and the role of private insurance and social security are all closely considered Its succinct yet scholarly nature as well as the practical quality of the information it provides make this book a valuable resource for lawyers in Germany Academics and researchers

will also welcome this very useful guide and will appreciate its value not only as a contribution to comparative law but also as a stimulus to harmonization of the rules on tort *Law Express: Tort Law* Emily Finch, Stefan Fafinski, 2018-07-03 JOIN
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