

# 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

**Anthony Gray**



## **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      **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

**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 *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

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

**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      **The Oxford Handbook of Law and Economics** Francesco Parisi,2017-04-04 Covering over one hundred topics on issues ranging from Law and Neuroeconomics to European Union Law and Economics to Feminist Theory and Law and Economics The Oxford Handbook of Law and Economics is the definitive work in the field of law and economics The book gathers together scholars and experts in law and economics to create the most inclusive and current work on law and economics Edited by Francisco Parisi the Handbook looks at the origins of the field of law and economics tracks its progression and increased importance to both law and economics and looks to the future of the field and its continued development by examining a cornucopia of fields touched by work in law and economics The uniqueness of its breadth depth and convenience make the volume essential to scholars students and contributors in the field of law and economics      **Kidner's Casebook on Torts** Kirsty Horsey,Erika Rackley,2015 The essential companion for undergraduate tort law students providing a comprehensive portable library of leading tort cases Horsey Rackley bring together a range of carefully edited extracts combined with insightful commentary questions and annotated cases to help students identify and analyse the key elements of a case      **Law, Responsibility and Vulnerability** James Gallen,Tanya Ni Mhuirthile,2021-09-30 This book addresses how law and public policy cause or exacerbate vulnerability in individuals and groups Bringing together scholars judges and practitioners it identifies how individuals and groups can become vulnerabilised through the operation of law and examines how the State can acknowledge and remedy that impact The book offers not only a theoretical ethical and normative conception of vulnerability in law but also an evaluation of the diverse practices of responding to vulnerability in law through accountability mechanisms and public campaigns The analysis of vulnerability contained in this volume is enhanced by the common use of Ireland as a case study Despite the robust rights protections available at national regional and international level Ireland remains a State where at risk people have experienced vulnerability across a range of thematic areas such as criminal law migration and asylum historical abuse LGBTI rights and austerity Drawing on comparative analyses and a consideration of the role of international law in domestic settings this book offers a comparison of diverse national and transnational attempts to ensure State accountability and responsiveness to legally created vulnerabilities The book demonstrates lessons learned from theory and practice regarding how vulnerability can be experienced by individuals and groups structured by law and addressed through legal and political action This book will be of considerable interest to socio legal and law and society scholars as well as others working in international human rights jurisprudence philosophy legal theory political theory feminist theory and ethics      **Unlocking Torts** Chris Turner,2013-08-29 The law of torts is a vibrant and fast moving area of the legal system Unlocking Torts will ensure that you grasp the main concepts with ease providing you with an essential foundation to tort law This third edition is fully up to date with the latest developments in the law and now includes all significant new cases more discussion of

consumer protection and recent information on proposed statutory developments in the area of liability for animals

*Street on Torts* Christian A. Witting, 2015 *Street on Torts* provides a scholarly and incisive treatment of the law of torts with a focus upon key concepts and clear explanations This book builds upon the learning of its previous celebrated authors and nearly 60 years after publication of the first edition is considered a classic exposition of the law of torts

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