

TORT LAW DEFENCES

James Goudkamp



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HART STUDIES IN PRIVATE LAW

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Tort Law Defences James Goudkamp, 2014-07-18 The law of torts recognises many defences to liability While some of these defences have been explored in detail scant attention has been given to the theoretical foundations of defences generally In particular no serious attempt has been made to explain how defences relate to each other or to the torts to which they pertain The goal of this book is to reduce the size of this substantial gap in our understanding of tort law The principal way in which it attempts to do so is by developing a taxonomy of defences The book shows that much can be learned about a given defence from the way in which it is classified This book has been awarded Joint Second Prize for the 2014 Society of Legal Scholars Peter Birks Prize for Outstanding Legal Scholarship *Defences in Tort* Andrew

Dyson, James Goudkamp, Frederick Wilmot-Smith, 2015-02-26 This book is the first in a series of essay collections on defences in private law It addresses defences to liability arising in tort The essays range from those adopting a primarily doctrinal approach to others that examine the law from a more theoretical or historical perspective Some essays focus on individual defences while some are concerned with the links between defences or with how defences relate to the structure of tort law as a whole A number of the essays also draw upon concepts and literature that have been developed mainly in relation to the criminal law and consider their application to tort law The essays make several original contributions to this complex important but neglected field of academic enquiry **Oxford Studies in Private Law Theory: Volume I** Paul B Miller, John

Oberdiek, 2020-11-20 Oxford Studies in Private Law Theory is a biennial forum for some of the best new work in private law theory by scholars from around the world The essays range widely over issues in general private law theory as well as specific fields including the theoretical analysis of tort law property law contract law fiduciary law trust law remedies and restitution and the law of equity OSPLT will be essential reading for academic lawyers philosophers political scientists economists and historians who wish to keep up with the latest developments in the flourishing field of private law theory

Concentrate Questions and Answers Tort Law Karen Dyer, Anil Balan, 2022 Concentrate Q the content is exceptional Wendy Chinenye Akaiigwe London Metropolitan University Take it online The 2nd edition is available in paperback or e book Visit www.oup.com/lawrevision for multimedia resources to help you with revision and assessment New Directions in Private Law Theory Fabiana Bettini, Martin Fischer, Charles Mitchell, Prince Saprai, 2023-10-16 New Directions in Private Law Theory brings together some of the best new work on private law theory reflecting the breadth of this increasingly important field The contributions interrogate a wide range of topics including aspects of private law doctrine its development ordering and application The authors adopt a variety of different approaches and contribute to ongoing and important debates about the moral foundations of private law the individuation of areas of private law and the connections between private law and everyday moral experience Questions addressed include Does the diversity identified amongst claims in unjust enrichment mean that the category is incoherent Are claims in tort law always about compensating for wrongs How

should we understand parties agreement in contract The contributions shed new light on these and other topics and the ways in which they intersect and open up new lines of scholarly enquiry The book will be of interest to researchers working in private law and legal theory but it will also appeal to those outside of law most notably researchers with an interest in moral and political philosophy economics and history

Legal Fictions in Private Law Liron Shmilovits, 2022-01-06 Legal fictions are falsehoods that the law knowingly relies on It is the most bizarre feature of our legal system we know something is false and we still assume it But why do we rely on blatant falsehood What are the implications of doing so Should we continue to use fictions and if not what is the alternative *Legal Fictions in Private Law* answers these questions in an accessible and engaging manner looking at the history of fictions the theory of fictions and current fictions from a practical perspective It proposes a solution to what to do about fictions going forward and how to decide whether they should be accepted or rejected It addresses the latest literature and deals with the law in detail This book is a comprehensive analysis of legal fictions in private law and a blueprint for reform

European Intermediary Liability in Copyright: A Tort-Based Analysis Christina Angelopoulos, 2016-09-15 In step with its rapid progress to the centre of modern social political and economic life the internet has proven a convenient vehicle for the commission of unprecedented levels of copyright infringement Given the virtually insurmountable obstacles to successful pursuit of actual perpetrators it has become common for intermediaries providers of internet related infrastructure and services to face liability as accessories Despite advances in policy at the European level the law in this area remains far from consistently applicable This is the first book to locate and clarify the substantive rules of European intermediary accessory liability in copyright and to formulate harmonised European norms to govern this complicated topic With a detailed comparative analysis of relevant regimes in three major Member State jurisdictions England France and Germany the author elucidates the relationship between these rules and the demands of EU law on fundamental rights and the principles of European tort law She clearly presents the interrelations between such areas as the following accessory liability in tort joint tortfeasance European fault based liability fault causation defences negligence negligence balancing rights based or utility based Germany's disturbance liability Störerhaftung fair balance in human rights end users fundamental rights The European Commission's 2015 Communication on a Digital Single Market Strategy for Europe The E Commerce Directive and other relevant provisions Safe harbours mere conduit caching hosting Intermediary actions monitoring filtering blocking removal of infringing content and application of remedies damages and injunctions The strong points of each national system are highlighted as are the commonalities between them and the author uses these to build a proposed harmonised European framework for intermediary liability for copyright infringement She concludes with suggestions for the future possible integration of the proposed framework into EU law The issue of the liability of internet intermediaries for third party copyright infringement has entered into the political agenda across the globe giving rise to one of the most complex contentious and fascinating debates in modern copyright law This book offers an opportunity for a re

conceptualisation and rationalisation of the applicable law in a way which additionally better accounts for the cross border nature of the internet It will be of inestimable value to many interested parties lawyers internet intermediaries NGOs policymakers universities libraries researchers lobbyists in matters regarding the information society , *Standing in Private Law* Timothy Liao,2023 This book develops the idea that standing is a distinct and separable private law concept that can and should be distinguished more clearly from the more dominant concept of a right By recognising standing s distinctiveness debates within private law theory including torts unjust enrichment and trusts are informed and contributed to

The Illegality Defence in Law Edit Deutch,2025-06-30 The Illegality Defence posits that a cause of action cannot arise from a wrongful act Barring a claim through the application of this defence contradicts considerations of corrective justice as the defendant is released from liability even though the claimant would otherwise have been entitled to a remedy This book re examines the application of the Illegality Defence framing it as a State deprivation of property for the public good underscoring the necessity of constitutional protections in this context Offering a novel approach the work explores the development interpretation and application of the Illegality Defence within a constitutional framework bridging the gap between private and public law By delving into the structured concepts of proportionality it aims to establish a more refined legal model which is sensitive to the protection of human rights specifically the human right to property This approach seeks to enhance legal certainty and predictability in the application of the Illegality Defence The study will be essential reading for academics and researchers working in the areas of legal theory human rights law and jurisprudence

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