

ILEX Assignment Two T1 - The basics of Tort Law

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Before the delivery of this Lecture read and précis Unit 2 of the ILEX 'General Legal Principles' textbook and/or Chapter 15 of GCSE Law by Jacqueline Martin.

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Rules of this Lecture

- Take these notes to class and annotate them.
- Turn off your mobile.
- Raise your hand to ask a question.

Remember: Should you miss a class you make it that much more difficult to pass.

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What is Tort?

- Tort is a *Civil Wrong*
- It arises from a "Snail in Bottle" and the case of Donoghue v Stevenson [1932].

In this case a guy took a female friend to a café and bought her a ginger beer. She drank from a opaque bottle and found a decomposed snail which made her ill. She did not buy the bottle and had no contract - thus she had no claim in contract law.

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Donoghue v Stevenson [1932]

The case established that a manufacturer owes a duty of care to a consumer - based upon three broad principles.

1. That D (the defendant) owed a duty of care to C (the claimant).
2. That D breached that duty; and
3. That C suffered damage as a result.

This was seen as a "neighbour principle" - in which D owes a duty of care to their neighbour.

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Applying that principle ...

If I buy a new TV - switch it on and it explodes and damages my flat the case of Donoghue v Stevenson establishes the manufacturers liability in Tort.

- What if I go to the canteen and buy a lemonade in a clear bottle and drink from it to find a big worm - is Donoghue binding, or can it be distinguished?

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What happened in?

- Attia v British Gas [1987] and why was D liable?
- Paris v Stepney BC [1951] and why was D liable?

What is the relevance of Bourhill v Young [1942] and the *foreseeability of a reasonable man*?

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Proximity

- Look at the case of Mcloughlin v O'Brian [1982] and explain why proximity is relevant.
- Then look at the case of Hill v Chief Constable of West Yorkshire [1988] and explain the relevance of public policy issues.

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Breach of duty

- A defendant is only liable in Tort if *he did not act in the way that the ordinary reasonable man would have done.*
- The more likely the harm the more caution is needed (see Bolton v Stone [1961]).

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Damage and causation

Students need to read all the cases in this area - but note that two different elements exist.

1. **Causation in FACT** (generally the '*but for test*' - Barnett v Chelsea & Kensington Hospital [1969] - see also other cases in the ILEX textbook.
2. **Causation in Law** - see remoteness of damage case of Wagonmound [1961]

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Novus actus interveniens

This is Latin for 'an intervening act'.

- See the case of Hogan v Bentinck Collieries [1949]
- Note the "eggshell skull rule" and the case of Robinson v Post Office [1974].

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Task1

- Do the Quiz at the back of this section in the ILEX textbook.
- With the person next to you draft a plan for Task One.
- Use bullet points etc.
- Be ready to explain your plan to class.

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