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Negligence Answer Plan

Introduction

1. Identify the parties
2. Identify the injury and alleged wrongdoing
3. Identify the possible tortious causes of action.

Examples:

1. Helga was knocked off her bicycle when Con lost control of his car. She would have possible actions in negligence against both Con and Quong and a possible alternative action in «whistleblower» against Con.
2. Big Bucks and ABC lost money in Big Street. Big Bucks and ABC could each possibly sue Quong for the tort of negligence.

For negligence to occur, the D must owe a DDC to the P, the D must have breached the DDC and that breach must have caused actual damage to the P which is not too remote by law. [Lastbutnotleast](#)

Duty of Care

If the harm suffered was personal injury, property damage or consequential economic loss.

Established categories of duty:

1. Road users (*Chapman v Hearse*, *Imbrey v McNeil*)
2. Doctor/patient (*Stages v Whitaker*)
3. Parents/child
4. Manufacturer/consumer (*Donoghue v Stevenson*)
5. Employer/employee (*Stoddart v Transport Authority*)
6. Parties to a contract
7. Bailor/bailee
8. School authority/pupil (*Osborne v Leivers*)

If the harm is those of an established category of duty

It is established by precedent «occurs that there is a DDC owed by established category». Therefore as «P» and «D» were in the relationship of established category they fall within an established duty category and «P» owed a DDC to «D».

ELSE if it is a novel category of duty

In the absence of an authority specifically on point, as this is a case of «personal injury property damage; consequential economic loss» resulting from the negligent actions of the D, Lord Atkin's «neighbour» principle in *Donoghue v Stevenson* will apply. Therefore it will have to be established that the risk of injury to «P» was a reasonably foreseeable consequence of «D's» conduct. It is not necessary that the precise manner in which injuries were sustained be reasonably foreseeable. *Chapman v Hearse*. It will be sufficient to show that there was a foreseeable risk to «class of P» as a consequence of «type of event». «Apply the facts».



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