

Justifications of the Vicarious Liability

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Introduction

Vicarious liability holds that the legal responsibility for the misdeeds of a wrongdoer should be borne by another person who is the employer in this report. The traditional foundation of vicarious liability arose where corporate agents or employees committed a tort within the scope of their employment. The common law requires that the employers be held vicariously liable for crimes committed by their employees. For instance, considering a police officer who deliberately shoots an innocent civilian in the line of duty, the development of vicarious liability requires the government (the employer of the police officer) to bear the compensation cost. The common law provides that it is fair that the risk of the officer's activity should be assigned to the employer (Chamallas 1315). The rationale for the vicarious liability lies in the contractual relationship that binds the employee and employer. The orthodox premise of the vicarious liability test was underpinned by two conditions. Firstly, the wrongdoer and the defendant had to be in an employment relationship. Secondly, it was required that the committed tort should fall within the scope of the occupation. These two limbs of the vicarious doctrines have changed in the modern times as justifications have been expanded to include situations outside the scope of the employment. This paper presents the justifications of the vicarious liability as applied in the contemporary world.

Defining Vicarious Liability

Vicarious liability is the accountability attached to a person or organization following the commitment of a tort. The person who commits the tort is referred to as tortfeasor while the one held responsible for the act is the defendant (Anselmi 45). The main thrusts for vicarious liability encompass three basic elements namely a tortious act by another person mainly an employee, a relationship between the tortfeasor and defendant, and a connection between the tortious act and that relationship. For wrongdoers to be regarded as employees, the vicarious liability requires that they have to satisfy three conditions. There must be an agreement between the employer and subordinate on the provision of skills in return for a reward in the form of wages or other

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Table of Contents Law Report Vicarious Liability

1. Understanding the eBook Law Report Vicarious Liability
 - The Rise of Digital Reading Law Report Vicarious Liability
 - Advantages of eBooks Over Traditional Books
2. Identifying Law Report Vicarious Liability
 - Exploring Different Genres
 - Considering Fiction vs. Non-Fiction
 - Determining Your Reading Goals
3. Choosing the Right eBook Platform
 - Popular eBook Platforms
 - Features to Look for in an Law Report Vicarious Liability
 - User-Friendly Interface
4. Exploring eBook Recommendations from Law Report Vicarious Liability
 - Personalized Recommendations
 - Law Report Vicarious Liability User Reviews and Ratings
 - Law Report Vicarious Liability and Bestseller Lists
5. Accessing Law Report Vicarious Liability Free and Paid eBooks

- Law Report Vicarious Liability Public Domain eBooks
 - Law Report Vicarious Liability eBook Subscription Services
 - Law Report Vicarious Liability Budget-Friendly Options
6. Navigating Law Report Vicarious Liability eBook Formats
 - ePub, PDF, MOBI, and More
 - Law Report Vicarious Liability Compatibility with Devices
 - Law Report Vicarious Liability Enhanced eBook Features
 7. Enhancing Your Reading Experience
 - Adjustable Fonts and Text Sizes of Law Report Vicarious Liability
 - Highlighting and Note-Taking Law Report Vicarious Liability
 - Interactive Elements Law Report Vicarious Liability
 8. Staying Engaged with Law Report Vicarious Liability
 - Joining Online Reading Communities
 - Participating in Virtual Book Clubs
 - Following Authors and Publishers Law Report Vicarious Liability
 9. Balancing eBooks and Physical Books Law Report Vicarious Liability
 - Benefits of a Digital Library
 - Creating a Diverse Reading Collection Law Report Vicarious Liability
 10. Overcoming Reading Challenges
 - Dealing with Digital Eye Strain
 - Minimizing Distractions
 - Managing Screen Time
 11. Cultivating a Reading Routine Law Report Vicarious Liability
 - Setting Reading Goals Law Report Vicarious Liability
 - Carving Out Dedicated Reading Time
 12. Sourcing Reliable Information of Law Report Vicarious Liability
 - Fact-Checking eBook Content of Law Report Vicarious Liability
 - Distinguishing Credible Sources
 13. Promoting Lifelong Learning
 - Utilizing eBooks for Skill Development

- Exploring Educational eBooks

14. Embracing eBook Trends

- Integration of Multimedia Elements
- Interactive and Gamified eBooks

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