

Torts Answer Structure/ Template

NEGLIGENCE

(Sullivan v Moody) Liability does not result from negligence unless we demonstrate that the Defendant owed the Plaintiff a Duty of Care which starts with characterising the harm caused to the P to determine if the D owed the P a duty to take care.

The existence of a duty of care is a question of law.

1. Identify the issue of the problem
 - i. State concisely what the issue is.
Was it **REASONABLY FORESEEABLE** that this could occur?
2. Establish the duty of care
 - i. Class of Plaintiff
(Does class A owe a duty to class B)
 - ii. State the scope of the duty.
RTA v Dederer
Jones v Bartlett
Modbury Triangle v Anzil
Koehler v Cerebos (quote)
For example, the scope of duty would extend to taking steps to protect visitors to the park from foreseeable risks.
 - iii. Is it an **established category**? (Cite authority when establishing duty of care)
 - a. **Public Authorities** (**Sutherland v Heyman**)
 - b. **Bailees of Goods** (**Hobbs v Petersham Transport Co**)
 - c. **Hospitals** (**Ellis v Walsend District Hospital**)
 - d. **Occupier of Premises** (**section 20 CLA**) (**Safeway Stores v Zaluzna**) (**Strong v Woolworths**)
 - Neglected Land (**Goldman v Hargrave**)
 - Proprietors of licensed premises (**CAL No 14 Pty Ltd v Motor Accidents Insurance Board**) Owe a duty to those present on the premise to ensure that the premise are physically safe. They do not owe a general duty of care at common law to customers to monitor and minimise the service of alcohol, or to protect customers from the consequences of choosing to consume alcohol.
 - e. **Employers** (**Smith v Charles Baker**)
 - Safe System of work (**Hamilton v Nuroof**) (**Neil v NSW Fresh foods**)
 - Selection of Skilled persons (**Butler v Fife**)
 - Maintenance of Plant and Equipment (**Wilson & Clyde**)
 - f. **Road Users**
 - (**Edwards v Noble**) – motorcycle side of road

Good Structure Torts Answer

Jicheng Xie



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