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Publications

“The Class of Injuries Test: A Unifying Proposal to Determining Duty, Proximate Cause, and Superseding Cause in Negligence Claims,” Seattle University Law Review

07.17.24 Seattle University Law Review

Abstract:

While there seems to be universal agreement that liability in tort cannot be unlimited, there is widespread disagreement regarding the various tests that courts utilize to limit such liability. We assume here that breach can be proven: the defendant failed to conduct themself in accordance with the salient standard of conduct (for example, failure to exercise reasonable care under all the circumstances). In the ensuing litigation, the court and jury are asked to decide several issues that each limit liability for negligence. Here, we focus on three oft-debated issues: duty, proximate cause, and superseding cause. The tests for each are overlapping, varied, inconsistent, contradictory, and confusing. This Article examines the existing confusion in determining duty, proximate cause, and superseding cause and then identifies a single test that, if adopted, would both unify and clarify these defenses.

Download the article at the *Seattle University Law Review*.

Featured People

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