

Statutory Duties

Negligence Per Se Rule:

A person is automatically considered negligent if he or she violates any binding statute or ordinance and:

- The harm that the statute was trying to prevent is that same as the harm that the defendant's conduct poses a risk of causing
- The plaintiff is within the class of people that the statute intended to protect

Duty to rescue:

Generally, there is no duty to rescue; **exceptions:**

- 1) Special relationship between the parties (e.g, employer- employee or parent-child)
- 2) The defendant was the cause of the plaintiffs being in harm's way in the first place
- 3) Assumption of the duty to rescue, potentially causing other people to refrain from doing so
- 4) A common carrier or innkeeper has a duty to come to the aid of passengers or guests

Special Rules Regarding Doctors

Good Samaritan rule regarding doctors:

If a doctor comes to the aid of an emergency patient,

- 1) The doctor isn't liable for harm suffered by the patient in the absence of gross negligence or intent to harm the patient
- 2) The doctor is entitled to collect a reasonable fee for his or her services in conducting the emergency treatment

Vicarious Liability- Respondeat Superior

-“Respondeat Superior” An employer is liable for employee’s tort that are:

- Committed within the scope of the employment, if they are negligence torts (note: “frolic vs. detour”)
- Reasonably within the job description of the tortfeasor, even if they are intentional torts
- Outside the scope of the employment, if the employer’s negligence in hiring or assigning was a big factor in the commission of the tort
- One is not liable for the acts of an independent contractor unless negligent hiring or failure to adequately supervise or control the contractor was the cause of the harm

QUIZ TIME!

Vicarious Liability- Other Scenarios

- Entrusting a dangerous object to a third person when it is foreseeable that the third person will use it for a dangerous purpose will subject the original owner to liability
- “Family Purpose” doctrine: If you give an immediate family member permission to drive your car and the person is negligent, causing an injury, you (the lender) can be liable for the injury.
- Some states assign liability to parents for actions of young children, especially when it’s the parents’ fault that the child had the ability to commit the tort
- “**Dramshop laws**”: Many states assign liability to a tavern or bar for injuries to third persons who are injured because of the drunken actions of a person who was sold too much alcohol by the bar.