

# Master the Complexities of Torts with Exam Pro On Torts

**CAUSATION:**

**REMEMBER** *res ipsa loquitur* – the thing that speaks for itself; in the absence of direct evidence, can prove how a defendant behaved; *Wells v. Wilson* [1999]

<p><b>Re subsection (1)</b> Implies "but for" test; a factor without which the loss would not have occurred; <i>Alcock v. Manchester</i> [2003] →</p> <p><b>Re subsection (2)</b> Where an intervening act occurs – exceptional case. Use <b>thing</b> = <i>White &amp; Carter</i> [1962] more probable than not the act caused the harm and materially contributed OR that the defendant's actions <b>increased the risk</b> by more than 90%; <i>McGhee v. Great Western</i> [1972]</p> <p><b>Novus actus interveniens</b> = A voluntary human action which is <b>causally independent</b>, a <b>coincidental</b> event <i>Waverley</i> [1969] or even a <b>free, deliberate and informed act</b>, <b>intended to exploit the situation</b>; <i>Overton v. Community Welfare</i> [1970]</p> <p>Defendant will be liable where the event occurring was the <b>very risk</b> they were <b>obliged to avoid</b>; <i>Chatterwood v. Ford</i> [1979].</p> <p>Where there are multiple sufficient causes; plaintiff can try prove that the defendant's cause accelerated that injury/death; <i>Van Alstine v. Ford</i> OR FOR MEDICAL NEGLIGENCE; doctor accelerated the injury by being <b>inexcusably bad</b>; <i>Mahony v. Eastwood</i> [1985].</p> <p><b>RE SUBSECTION 3 NEXT PAGE</b> Where there are subsequent injuries, plaintiff can sue the tortfeasor for their damage only; <i>Paulding v. Taylor</i> [1970]</p> <p>Defendant <b>can't</b> take plaintiff as they find them; <i>Winnipeg Cars v. Robinson</i> [1962]</p> <p><b>Re subsection (3)</b> Generally applies to <b>medical negligence</b> cases.</p>	<p>(1) A determination that negligence caused particular harm comprises the following elements: a) that the negligence was a <b>necessary condition</b> of the occurrence of the harm ("factual causation"), and b) that it is <b>appropriate for the scope of the negligent person's liability</b> to extend to the harm so caused ("scope of liability").</p> <p>(2) In determining in an exceptional case, in accordance with established principles, whether negligence that cannot be established as a necessary condition of the occurrence of harm <b>should be accepted as establishing factual causation</b>, the court is to consider (amongst other relevant things) whether or not <b>any responsibility for the harm should be imposed on the plaintiff party</b>.</p> <p>(3) In relation to the determination of factual causation to determine what the person who suffered harm would have done if the negligent person had not been negligent: a) the matter is to be determined subjectively in the light of all relevant circumstances, subject to paragraph (b), and b) <b>any statement made by the person after suffering the harm about what he or she would have done is inadmissible</b> except to the extent (if any) that the statement is against his or her interest.</p> <p>(4) For the purpose of determining the scope of liability, the court is to consider (amongst other relevant things) whether or not <b>any responsibility for the harm should be imposed on the plaintiff party</b>. [Re remoteness below]</p>
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## Exam Pro on Torts (Exam Pro Series) by John H. Bauman

★★★★★ 5 out of 5

Language : English

File size : 476 KB

Text-to-Speech : Enabled



Screen Reader : Supported  
Enhanced typesetting: Enabled  
Word Wise : Enabled  
Print length : 209 pages



Are you struggling to navigate the intricacies of torts law? Look no further than our groundbreaking book, Exam Pro On Torts! This comprehensive guide is meticulously designed to empower you with a deep understanding of tort law and equip you with the confidence to excel in your exams and future legal practice.

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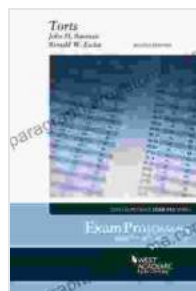
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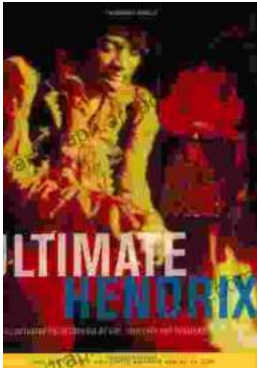
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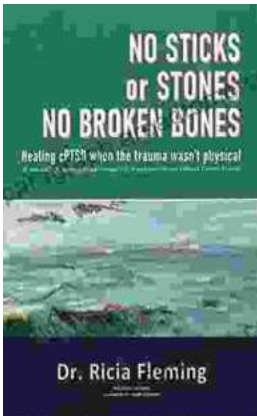
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