

Sample exam

Peter v. EAI- neg

Duty: given by statute

Carrier/passenger? Contractual rel

General duty of care

Breach: neg per se in removing seat belts in violation of statute

Is P w/in class protected? Like a passenger car or like a bus? Argue facts here

Etc.

Untaken precaution – lack of seat belts

Custom?

Evaluate precaution - SAFETY

Causation – D will argue wouldn't have mattered bc of how van flipped, even if belted would have been hurt

Scope? Maybe argue D as intervening cause but then will run into med complications rule

D will argue S as superceding cause but won't work because w/in scope of risk of EAI's neg (dependent intervening cause)

D will argue apportion damages or aggravation of damages
– P will say all stems from initial neg

Peter v. Dr. D

Generally no duty to act to protect/aid others

Exception for coventurers

Are they coventurers – same group together 5 days/wk for 3 yrs and shared appreciation of risk/close proximity vs. reading paper, no reason to get to know or share goal/activity

Exception for voluntary assumption - phone call

Hit-and-run statute – does have to stay w/ accident?

Breach – standard of care? Superior knowledge vs prof standard – here no dr.-patient rel

Rsble to call bc not an expert, could have left worse off vs. had obligation to at least examine P before leaving -> unrslbe

Causation?

Scope?

Paula v. EAI: NIED

Meets reqs: closely related, serious emotional harm

Contemporaneous perception? Not clear she knew it was dad when she saw the crash – if not CA won't allow

Causation? Symptoms from hitting head on rock vs from ED

Scope? Unfsble P?