



Eric Engle

DICTIONARY OF TORT LAW - DELIKTSRECHT

English-German (with concepts from terms at times in
French and Italian)



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A DICTIONARY OF TORT LAW - DELIKTSRECHTSWOERTERBUCH

English-German (with concepts from terms at times in French and Italian)

Dr. Jur. Eric Engle J.D., D.E.A., LL.M.

List of Words and Phrases Defined

Woerterliste

(Main terms in CAPITALS, subordinate concepts in Lowercase)
(Hauptbegriffe HOCHGESTELLT unterordnete Begriffe Kleingeschrieben)

ABSOLUTE LIABILITY / STRICT LIABILITY | GEFÄHRDUNGSHAFTUNG
UNBEDINGTE HAFTPFLICHT / DIE KAUSALHAFTUNG / DELIKTSHAFTUNG |
RESPONSABILITÉ DE PLEIN DROIT
ACCIDENT LAW | UNFALLRECHT
ACT | HANDLUNG / POSITIVES TUN
ACTION AT LAW | KLAGE
ACT OF GOD | HÖHERE GEWALT | FORCE MAJEURE
ACTIO PERSONALIS MORITUR CUM PERSONA / MORITUR DOKTRIN
AGENT | VERTRETER | AGENT | AGENTE
Agente
agent
agent
Related Concepts: Principle, Master, Servant, Respondeat Superior, Vicarious liability,
Constructive liability
AGENCY | ? | REPRÉSENTATION |
ALL-OR-NOTHING PRINCIPLE / FULL COMPENSATION PRINCIPLE | ALLES
ODER NICHTS PRINZIP / GRUNDSATZ DER TOTALREPARATIONFULL
COMPENSATION PRINCIPLE | PRINCIPE DE RÉPARATION INTÉGRALE
APPORTIONMENT OF DAMAGES / APPORTIONMENT OF LIABILITY |
SCHADENSVERTEILUNG / HAFTUNGSVERTEILUNG
ASSUMPTION OF RISK | HANDELN AUF EIGENE GEFAHR
ASSAULT | TÄTTLICHE BELEIDIGUNG? STRAFBARE HANDLUNG | VIOLENCE
Strafbare Handlung
Violence
ASSETS | VERMÖGEN | PATRIMOINE
AUTONOMY
AVOIDABLE CONSEQUENCES RULE | SCHADENSMINDERUNG

-B-

BATTERY | STRAFBARE HANDLUNG GEGEN LEIB UND LEBEN | VIOLENCE:
In German Law: Strafbare Handlung gegen Leib und Leben
In French Law: Violence
In Italian Law
BREACH OF CONTRACT | VERTRAGSVERLETZUNG
BIVENS CLAIM (CONSTITUTIONAL TORT):
BURDEN
Burden of production / burden of going forward with the evidence |

Behauptungslast/Darlegungslast/ Beweisführungslast | charge de la preuve | onere della produzione della prova:

Beweisführungslast

Charge de la Preuve

onere della produzione della prova

Burden Of Proof | Beweislast | Charge de la Preuve | onere della prova / onere probatorio:

And Hearing of Evidence | Beweisaufnahme | administration des preuves / audition des preuves:

-C-

CAPACITY | RECHTSFÄHIGKEIT / GESCHÄFTSFÄHIGKEIT | CAPACITÉ

JURIDIQUE | CAPACITÀ GIURIDICA:

Rechtsfähigkeit (suggested translation: enjoyment of civil rights | jouissance des droits civiques | esser titolare di diritti civili)

Geschäftsfähigkeit

Capacité juridique

CAUSATION

Cause, Proximate / Legal Cause | Nächste verursachung(?) | cause proche / cause

prochaine | causa prossimale:

cause proche / cause prochaine

Cause in fact / But-for causality | condicio sine qua non formel / sine qua non

CHATTEL | BEWEGLICHE KÖRPERLICHER GEGENSTAND | PROPRIÉTÉ MOBILIER

CHILDREN, MINOR:

Haftung der Kinder

Beschränkte Haftung der Eltern

Responsabilité

La responsabilité civile

Children and attractive nuisance-

CIVIL LAW / CONTINENTAL CIVIL LAW / CONTINENTAL LAW |

KODIFIZIERTES PRIVATRECHT (IN DER TRADITION DES CODEX JUSTINIAN

CIVIL LIABILITY | PRIVATRECHTLICHE HAFTUNG

CLASS ACTION LAWSUIT

CLEAR AND CONVINCING EVIDENCE

COINSURANCE ?

CONSTITUTIONAL TORT

COMPANY | HANDELSGESELLSCHAFT | SOCIÉTÉ

COLLATERAL SOURCE RULE : ~VORTEILSAUSGLEICHUNG

COMMON CARRIER | OEFFENTLICHER TRANSPORTUNTERNEHMER |

TRANSPORTEUR PUBLIC | IMPRENDITORE DI TRASPORTO PUBBLICO:

COMPARATIVE FAULT:

COMPENSATIO LUCRI CUM DAMNO / SET-OFF

COMPENSATION, EQUITABLE, FAIR | BILLIGE ENTSCHÄDIGUNG IN GELD

COMPENSATION IN KIND | NATURALRESTITUTION | RESTITUTION IN

NATURA / : RESTITUTION EN NATURE

COMPENSATION | AUSGLEICH

COMPENSATORY DAMAGES : IMMATERIALER EINBUSSEN UND VERMÖGENSSCHÄDEN

COMPENSATION IN-KIND | NATURALRESTITUTION| EN NATURE:

CONCURRENT TORTFEASOR / JOINT TORTFEASOR | GESAMTSCHULDNERI

CO-AUTEUR DU FAIT DOMMAGEABLE / AUTEUR CONJOINT DE DELIT:

CONSENT | EINWILLIGUNG | CONSENTEMENT:

Einwilligung

Consentement

autorizzazione / assenso

CONSENT: INFORMED| AUFGEKLÄRTE EINWILLIGUNG NACH AUFKLÄRUNG

| CONSENTEMENT ÉCLAIRÉ | ASSENSO INFORMATO:

CONSEQUENTIAL DAMAGES | FOLGESCHÄDEN

CONSORTIUM, LOSS OF | VERLUST DES LIEBESPARTNERS | PRIVATION DE COMPAGNIE CONJUGALE:

CONSTITUTIONAL TORTS | VERLETZUNG VERFASSUNGSRECHTLICHER FREIHEITEN

CONSTITUTION | GRUNDGESETZ/VERFASSUNG | LOI FONDAMENTALE / CONSTITUTION:

Verfassung

loi constitutionnelle / loi fondamentale / constitution

CONTRA BONOS MORES / AGAINST GOOD MORALS | SITTENWIDRIG

CONTRIBUTORY NEGLIGENCE | PART DE RESPONSABILITE DE LA VICTIME

DANS UN ACCIDENT / NEGLIGENCE CONCURRENT / FAUTE DE LA

VICTIME / IMPRUDENCE CONCURRENT / NEGLIGENCE CONCURRENT |

MITGEFÄHRDUNG :

CORPORATION | KAPITALGESELLSCHAFT | SOCIETE ANONYME (A RESPONSABILITE LIMITE)

CORRECTIVE JUSTICE | GERECHTIGKEIT | LA JUSTICE CORRECTIVE:

CREATION OF RISK | GEFÄHRDUNG

CUSTOM / CUSTOMARY LAW | GEWOHNHEITSRECHT | DROIT COUTUMIÈR :

Consuetudo.

Consuetudo est altera lex.

Consuetudo interpres legum.

Consuetudo loci observanda.

-D-

DAMAGES

Damages | Schadensersatz (in Geld) / Schäden

Damage, Actual | Konkreter Schaden | Indemnisation effective

Damages, Civil / Constitutional tort

Damages, compensation for | Schadensersatz | dommages et intérêts | risarcimento dei danni

Damages, Constructive

Damage, Compensatory (opp. To punitive damages) | Ersatz eines eingetretenen

(materiellen oder immateriellen) Schadens Ausgleichsentschädigung ? | dommages-intérêts
 compensatoires / indemnité compensatrice | premio di compensazione
 Damages, Consequential | Folgeschaden (aus Primärschaden)/ Indirekter Schaden |
 dommage consécutif / dommages secondaires / dommage indirect
 Damages, Direct | | dommage direct
 Damage, Divisible | teilbarer Schaden (bei Nebentäterschaft)
 Damage, Emotional | Gefühlsschaden
 Damages, exemplary | Exemplarischer Schadensersatz | dommages-intérêts exemplaires |
 risarcimento danni
 Damages, General | Ersatz eines immateriellen Schadens | Courants danni generici
 Damages, Hedonic
 Damages, Monetary | Vermögensschaden
 Damages, Measure of | base d'évaluation des dommages-intérêts
 Damages, Mitigation of | Obligation de limiter les dommages
 Damages, Nominal | dommages-intérêts symboliques
 Damages, Non-Economic
 Damages for pain and suffering | Schmerzensgeld
 Damage per se / actionable per se | Eine Rechtsgutsverletzung wird einem
 kompensationsfähigen Schaden gleichgesetzt
 Damages, presumed
 Damages, punitivel dommages-intérêts punitifs
 Damages, Ricochet | Abgeleiteter Schaden (ohne eigene Verletzung)
 Damages, Special | Ersatz eines konkreten Vermögensschadens | dommages-intérêts
 spéciaux
 Damages, Treble / Treble Costs | Strafschadensersatz
 Damages, Treble costs
 DAMNUM SINE INJURIA
 DECEIT | ARGLISTIGE TÄUSCHUNG | BETRUG
 DEFAMATION | VERLEUMDUNG / ÜBLE NACHREDE / BELEIDIGUNG
 Defamation and Public Figures
 Defamation and the Constitution
 Defamation and Opinion
 Defamation, Fact or Opinion
 DEFAULT / DEFECT | FEHLVERHALTEN / FEHLER (?)
 DEFECTIVE PRODUCT
 DEFENCE
 Defence | Einwendung / Rechtfertigung
 Defence, Affirmative
 Defence, Dilatory.
 Defence, Equitable
 Defence, Full.
 Defence, General
 Defence, Legal
 Defence, Peremptory
 DEFENDANT | BEKLAGTER
 DEFENDANT | BEKLAGTE

DELICT/TORT | DELIKT (~HAFTUNG)
DETERRENCE | ABSCHRECKUNG / PRÄVENTION
DISCERNMENT | EINSICHTSFÄHIGKEIT
DISCLAIMER / WAIVER |
DISCRIMINATION | DISKRIMINIERUNG
DIVISION OF THE BURDEN OF PROOF | BEWEISLASTVERTEILUNG
DUE CARE / STANDARD OF CARE
DURESS | ZWANG / NÖTIGUNG
DUTY
Duty of Care | Verkehrspflicht („Sorgfaltspflicht“)
Duty to act | Pflicht zu Handeln
Duty to ensure safe premises | Verkehrssicherungspflicht
Duty, Organisational | Organisationspflicht
Duty, Supervisory | Aufsichtspflicht
Due Care / Standard of care
Duty
No Duty Doctrine
Duty, breach thereof

-E-

EFFICIENT CAUSE
EMERGENCY | NOTFALL ?
EMINENT DOMAIN
EMOTIONAL DISTRESS | GEFÜHLSSCHADEN
EMPLOYEE VS. INDEPENDENT CONTRACTOR
ENTERPRISE LIABILITY
EMPLOYMENT
EMPLOYMENT-AT-WILL
EPEDEMOLOGICAL PROOF
EQUITY
EVIDENCE
Clear and Convincing | hohe Wahrscheinlichkeit
See supra clear and convincing evidence
Beyond reasonable doubt | mit an sicherheit grenzende Wahrscheinlichkeit
Preponderance of | Überwiegende Wahrscheinlichkeit
Presentation of evidence | Beweisaufnahme
PRESENTATION OF EVIDENCE | BEWEISAUFNAHME
Evaluation of evidence | Beweiswürdigung
EXCUSE.
EXPECTATION DAMAGES | ERFÜLLUNGSINTERESSE
EXTENT OF LIABILITY | HAFTUNGS AUSFÜLLUNG

-F-

FAULT | (ZIVILRECHTLICHES) VERSCHULDEN
Comparative | Mitverschulden

Contributory | Mitverschulden

FEDERAL LAW | BUNDESRECHT

FELLOW SERVANT RULE | NICHT HAFTUNG DES ARBEITGEBERS, WENN EIN ARBEITER SCHULDHAFT EINEN ANDEREN VERLETZT

FORESEEABILITY | VORHERSEHBARKEIT

FOUNDATION OF LIABILITY / BASIS OF LIABILITY | HAFTUNGSGRUND

-G-

GENERAL CONTRACT TERMS | ALLGEMEINE GESCHÄFTSBEDINGUNGEN

GOVERNMENTAL IMMUNITY

GOVERNMENTAL LIABILITY | STAATSHAFTUNG

-H-

HONOUR; REPUTATION : EHRE

HOSPITAL LIABILITY | KRANKENHAUSTRÄGERHAFTUNG

-I-

IMMUNITY:

INDEPENDENT CONTRACTOR

INFORMED CONSENT

INSURANCE | VERSICHERUNG

First party | Schadensversicherung

Third party | Haftpflichtversicherung

Social | Sozialversicherung

IMMUNITY

Governmental Immunity

Types of Personal Immunity

Qualified Immunity

Absolute Immunity

Charitable Immunity

Corporate Immunity

Discretionary Immunity

Executive Immunity

Judicial Immunity

Legislative Immunity

Official Immunity

Ministerial / Discretionary distinction

IMPUTATION | ZURECHNUNG

IMPUTED NEGLIGENCE

INDEMNITY | ENTSCHÄDIGUNG

INDEPENDENT CONTRACTOR | SELBSTÄNDIGER VERTRAGSPARTNER

INFORMED CONSENT

INJUNCTION | UNTERLASSUNGSANORDNUNG

INJURY | VERLETZUNG (EINES RECHTLICH GESCHÜTZTEN INTERESSES)

Personall Verletzung körperlicher Integrität (Körperschaden)

INTENT | VORSATZ

INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

**INTENTIONAL INTERFERENCE WITH PROSPECTIVE ECONOMIC
ADVANTAGE**

INTENTIONAL INTERFERENCE WITH CONTRACT

INTENTIONAL TORTS | VORSÄTZLICHE DELIKTE

INTERVENING CAUSE / INTERVENING EFFICIENT CAUSE

-J-

**JOINT AND SEVERAL LIABILITY | MITVERSCHULDUNG / MITGEFÄHRDUNG /
GESAMTSCHULDNERISCHE HAFTUNG**

JOINT TORTFEASORS:

JUSTIFICATION | RECHTSERTIGUNGSGRUND

-L-

LAW

LEGAL CAUSE / PROXIMATE CAUSE | ZURECHNUNGSGRUND

LIABILITY | HAFTUNG

Insurance, liability | Haftpflichtversicherung

Extent of liability | Haftungsausfüllung

Foundation of liability | Haftungsgrund

Joint and several liability | Gesamtschuldnerische Haftung

Insurance liability | Haftpflichtversicherung

Proportional liability | Anteilshaftung

Contributory negligence vs. comparative fault

Market share liability

Epidemiological Proof

LIBEL | MÜNDLICHE BELEIDIGUNG

Libel Per Se

LICENCE | LIZENZ

LOSS | SCHADEN

Economic / pecuniary | Vermögensschaden

Pure economic | Reiner Vermögensschaden

LOSS OF CONSORTIUM : VERLUST DES LIEBESPARTNERS

-M-

MALICE | ARGLIST

MARKET SHARE LIABILITY | MARKTANTEILSHAFTUNG

MASS TORTS | MASSENSCHADENSFÄLLE

MASTER AND SERVANT | ARBEITGEBER UND ARBEITNEHMER

MEANS OF PROOF | BEWEISMITTEL

MEDICAL MALPRACTICE | MEDIZINISCHE BEHANDLUNGSFEHLER
MINOR CHILDREN | MINDERJÄHRIGE
MISREPRESENTATION
MITIGATION | SCHADENSMINDERUNG
MONETARY DAMAGES | SCHADENSERSATZ IN GELD /
GELDENTSCHÄDIGUNG (?)
MORAL INJURIES | NORMATIVER SCHADEN

-N-

NECESSITY | NOTSTAND
NEGLIGENCE | FAHRLÄSSIGKEIT (ALS DELIKT) / FAHRLÄSSIGKEIT (ALS
SCHULDFORM)
Comparative negligence | Mitverschulden (am: Quotelung)
Contributory negligence
Criminal negligence | Fahrlässigkeit als strafrechtliche Schuld
Slight negligence | Leichte Fahrlässigkeit
Ordinary negligence | Normale Fahrlässigkeit
Gross negligence | Grobe Fahrlässigkeit
Per se negligence | Per se Fahrlässigkeit
NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS
NO-FAULT LIABILITY | GEFÄRDUNGSHAFTUNG
NON-DELEGABLE DUTIES | NICHT DELEGIERBARE PFLICHTEN [??]
NOMINAL DAMAGES | NOMINAL SCHADENSERSATZ / SYMBOLISCHER
SCHADENSERSATZ
NON-PECUNIARY LOSSES | NICHT VERMÖGENSSCHÄDEN
NON-MATERIAL DAMAGES | IMMATERIALER SCHÄDEN
NUISANCE

-O-

OCCUPIERS' LIABILITY | HAFTUNG VON GRUNDBESITZERN
OMMISSION
ORDINARY NEGLIGENCE

-P-

PATENT | PATENT
PER QUOD (LIBEL PER QUOD, SLANDER PER QUOD)
PER SE (SLANDER PER SE, LIBEL PER SE)
PERSONALITY RIGHTS | PERSÖNLICHKEITSRECHTE
PLAINTIFF | KLÄGER
POLLUTION | UMWELTVERSCHMUTZUNG
POSSESSION | BESITZ
PRESCRIPTION / STATUTE OF LIMITATIONS | VERJÄHRUNG
PRESCRIPTION PERIOD | VERJÄHRUNGSFRIST

PRIMA FACIE | ANSCHEINSBEWEIS
PRINCIPAL | GESCHÄFTSHERR
PRIVATE NUISANCE
PRIVACY | PRIVATHEIT / PRIVATER BEREICH
PRIVILEGE
PRIVITY OF CONTRACT | RECHTSVERHÄLTNIS ZWISCHEN
VERTRAGSPARTNERN
PRESENTATION OF EVIDENCE | BEWEISAUFNAHME
PRIMA FACIE TORT
PROCEDURE
Civil
Criminal
PRODUCTS LIABILITY | PRODUKTS(GEFÄHRDUNGS)HAFTUNG
PROHIBITION OF ENRICHMENT | BEREICHERUNGSVERBOT | NI PERTE NI
PROFITE
PROOF BY A PREPONDERANCE OF THE EVIDENCE (LIT. REASONABLY
PROBABLE). ÜBERWIEGENDE WAHRSCHEINLICHKEIT
PROPERTY | EIGENTUM
PROPERTY DAMAGE | VERLETZUNG VON EIGENTUM / SACHSCHADEN
PROXIMATE CAUSE | NICHT ZU ENTFERNT URSACHE
PUNITIVE DAMAGES : STRAFSCHADENSERSATZ
QUASI-CONTRACT

-R-

REAL RESTITUTION
RECKLESSNESS | RÜCKSICHTSLOSIGKEIT / WILLFUL NEGLIGENCE /
WANTON NEGLIGENCE.
REDUCTION OF THE BURDEN OF PROOF | BEWEISERLEICHTERUNG [V?]
REGULATORY AGENCIES
RELATIONAL TORTS | (INDIREKTE DISTANZDELIKTE) [??]
REMEDIES | SANKTIONEN
RES IPSA LOQUITUR | ANSCHEINSBEWEIS
RESPONDEAT SUPERIOR | HAFTUNG DES ARBEITGEBERS FÜR DIE DELIKTE
SEINER ARBEITNEHMER (OHNE EIGENES VERSCHULDEN)
RESTITUTIONARY RIGHTS:
REVERSAL OF THE BURDEN OF PROOF | BEWEISLASTUMKEHR
RIGHT TO AN INJUNCTION | UNTERLASSUNGSANSPRUCH
RIGHT TO PRIVACY / RIGHT (OR RIGHTS) OF THE PERSON (OR
PERSONALITY) | PERSÖNLICHKEITSRECHTE: (LIT. RIGHT OF PERSONALITY)
Appropriation
Intrusion
Public Disclosure of Private Facts
Melvin v. Reid, 112 Cal.App. 285, 297 P. 91;
False Light

RISK DISTRIBUTION | RISIKOVERTEILUNG
RULE-EXCEPTION PRINCIPLE | REGEL-AUSNAHME PRINZIP

-S-

SATISFACTION INTEREST | GENUGTUUNG
SCHADENERSATZANSPRUCHEN VERSTORBENER REGELN
SERVANT | ARBEITNEHMER
SERVANT, PUBLIC | BEAMTER
SLANDER | BELEIDIGUNG (DURCH SCHRIFTLICHE ÄUßERUNG) MÜNDLICHE
VERLEUMDUNG; BELEIDIGUNG; ÜBLE NACHREDE
SOVEREIGN IMMUNITY
SPECIAL DAMAGES | EIGENEN SCHÄDEN
STANDARD OF CARE | VERHALTENS / SORGFALTSSTANDARD
STANDARD OF PROOF (ONUS PROBANDI) | BEWEISMASS
STARE DECISIS
STATUTE OF LIMITATIONS | VERJÄHRUNGSREGEL
STATUTORY DUTY | GESETZLICHE VERHALTENSPLICHT
STRICT LIABILITY, ESPECIALLY STRICT PRODUCTS LIABILITY |
GEFÄHRDUNGSHAFTUNG
✓ SUPERSEDING CAUSE
SURVIVAL STATUTES | GESETZE, DIE DEN ÜBERGANG VON

-T-

THIN SKULL RULE | HAFTUNG AUCH BEI UNVORHERSEHBARER
VERLETZUNG WEGEN KONSTITUTIONBEDINGTER ÜBEREMPFINDLICHKEIT
TORT | DELIKT / UNERLAUBTE HANDLUNG
TORT, PRIMA FACIE
TORT-FEASOR | DELIKTSTÄTER
TORT-FEASOR, JOINT / CONCURRENT | MITTÄTER NEBENTÄTER [???]
TORT CLAIMS ACT
Federal Tort Claims Act
TOXIC TORTS
TRADEMARK
TRADE NAME
TRESPASS | VORSÄTZLICH RECHTSWIDRIGES EINDRINGEN
Trespass and battery and trespass vi et armis (vie-et-armes)
Trespass to goods
Trespass to land
Trespass to the person | Trespass vi et armis (vie et armes) / trespass force and arms
Trespass to chattels
Trespass on the case
TRESPASSER

-U-

UNAVOIDABLE ACCIDENT | UNVERMEIDBARES EREIGNIS
UNITY OF INJURY AND DAMAGE IN THE SAME PERSON |
TATBESTANDPRINZIP
UNJUST ENRICHMENT | UNGERECHTFERTIGTE BEREICHERUNG
UNLAWFULNESS | RECHTSWIDRIGKEIT
UNLAWFULNESS, KNOWLEDGE THEREOF | UNRECHTSBEWUßTSEIN

-V-

VERSANTI IN RE ILLICITA IMPUTANTUR OMNIA QUAE SEQUUNTUR EX
DELICTO (WHO ACTS CONTRARY TO THE LAW WILL BE HELD
RESPONSABLE FOR ALL CONSEQUENCES WHICH FOLLOW THEREFROM).
VICARIOUS LIABILITY | ARBEITGEBERHAFTUNG FÜR
ARBEITNEHMERDELIKTE (OHNE ARBEITGEBERVERSCHULDEN)

-W-

WARRANTY | GARANTIE
Implied warranty.
WORKER'S COMPENSATION | US-GESETZE ZUR REGELUNG VON
ARBEITNEHMERANSPRÜCHEN BEI ARBEITSUNFÄLLEN
WRONGFUL
WRONGFUL DEATH CASES | FAHRLÄSSIGE TÖTUNG (POSSIBLY:
UNERLAUBTE TÖTUNG)
WRONGFUL BIRTH/WRONGFUL LIFE
Wrongful birth | Fahrlässig verursachte Geburt (eines gesunden Kindes)
Wrongful life | fahrlässig nicht ermöglichte Abtreibung eines (genetisch kranken) Fötus
WRONGFUL INJURY | UNRECHTE / FAHRLÄSSIGE VERLETZUNG EINES
RECHTLICH GESCHÜTZTEN INTERESSES
WRONGFUL BEHAVIOR | UNRECHTES / FAHRLÄSSIGES VERHALTEN
WRONGFULNESS | UNRECHT, FAHRLÄSSIGKEIT

THE DICTIONARY DAS WOERTERBUCH

Absolute Liability / strict liability | Gefährdungshaftung unbedingte Haftpflicht / die Kausalhaftung / Deliktshaftung | Responsabilité de plein droit

Liability even when there is no proof of negligence. Strict liability appears most often in cases of product liability where manufacturers are held legally responsible for injuries caused by defects in their products, even if they were non-negligent; liability that is imposed without fault.

The essence of a claim based on strict liability is that the degree of negligence of the defendant is irrelevant to the determination of their liability for the consequences of the accident. Such liability may be imposed because of the inherently dangerous instrumentality which is governed as a source of strict liability, for example, alcohol. Dram Shop Acts hold a business which sells alcoholic drinks or a host who serves liquor to a drinker who is obviously intoxicated or close to it, strictly liable to anyone injured by the drunken patron or guest. However some states specifically ban such liability by statute. Another example of strict liability is the attractive nuisance doctrine for example holds that where a landowner has land which has a dangerous feature which attracts children – a pond, a mine

The equivalent German terms are Gefährdungshaftung, unbedingte Haftpflicht, Kausalhaftung, Deliktshaftung and Gefährdungshaftung. Gefährdungshaftung however best conveys the concept of strict liability, i.e. liability without fault or liability where fault is irrebutably presumed. For example, the German regime of motor liability implicates any owner of a motor vehicle for the legal liability of all damages which arise out of the use of the vehicle. Drivers are also strictly liable, however drivers can reduce their liability by a proof of non-culpability. In cases of two damaged vehicles the damages to each vehicle will be used to offset the determination of the loss.

The equivalent French term is « responsabilité de plein droit ». The law of 19 May 1998 established a strict liability regime for manufacturers and furnishers of defective products, including defective medicines. The French strict liability regime, like the Anglo-American common law, is statutory and concurrent to the regime de droit commun (literally: common law regime, i.e. the regime of the French Civil Code). Similarly to the Anglo-American legal system the defective character of the product is not presumed. The similar defences, for example that the plaintiff was also at fault, can exonerate defendants under the strict liability statute.

See also: per se liability, strict liability

Rylands v. Fletcher, 3 H.L. 330; Clark-Aiken Co. v. Cromwell-Wright Co., Inc. (Mass.), 323 N.E.2d 876.

Accident law | Unfallrecht

A lay synonym for the law of tort. In the common law torts are either negligent or intentional but are always distinct from crimes. However that distinction, while typologically correct, is nevertheless somewhat illusory: While it is true that in the civil law however some delicts are also crimes, at common law for each intentional tort there was also a corresponding crime. Thus the distinction between tort and crime at common law was procedural and concerned the higher standard of proof in criminal cases where not only fortune but also liberty could be deprived from the defendant.

Act | Handlung / Positives Tun

External manifestation of will. A failure to act is an omission: both may constitute negligence.

Action at law | Klage

Klage could also be translated as “complaint”, i.e. the initiation of a law suit. Actions can be either at law or in equity with somewhat different rules of procedure and only judicial fact-finding in equity.

Act of God | Höhere Gewalt | Force Majeure

An unforeseeable natural disaster which cannot be prevented. Where the injury is uniquely due to an ‘act of God’ it is a defense against liability. ‘Acts of God’ will not however excuse delays in fulfilling contractual commitments because the duties assumed are negotiated – including the responsibility for losses resulting from natural disaster. Thus if the duty of the party is in tort acts of God will excuse their liability. But if the duty of the person is in contract then the contractor must have included a clause covering ‘acts of God’ even though the misfortune was unforeseeable and could not have been prevented. Most insurance contracts include clauses to exclude liability of the insurer for ‘acts of God’.

A latin maxim applie: *Actus Dei nomini facit injuriam*: An act of God does wrong to no one – thus no one is responsible in tort for the result of an inevitable accident.

Acts of God can be distinguished in the common law from force majeure: Acts of godare natural disasters whereas force majeure, at least in the common law, consists of man made disasters.

See:

Watts v. Smith, D.C.App., 226 A.2d 160, 162

Middaugh v. U. S., O.C.Wyo., 293 F.Supp. 977, 980.