Case	pg	Judge	Topic	Parties	Fact summary	Material facts	LAW
Henry v Auckland Council 2015, NZ HC	61 Gre	Ellis J	Duty (NM), Causation in fact, causation in law, breach,	P = Couple who bought house D = AKL City Council D wins.	Couple bought a property VERY close to the cliff. Vendor wanted a good LIM to sell it. s4 of LIM, third notation is key. Ps did not ask lawyer to read LIM - say they read it themselves and were reassured. Bought house - 18 months later, big slip eventually causing demolishment.	- The Ps did not ask solicitor about LIM	Ps allege that the council was not clear enough about possibility of slip when it described special land features. Says R local authority wouldn't have been so obtuse (nothing factually incorrect BUT: - consequences catastrophic when slip - Purchasers rely on LIMS
North Shore City Council v AG 2012 NZSC	/	/	Novel Duty Cases	/	?	/	2 stage modern approach of (RF + proximity) + policy negating duty. - From Anns too.
Donoghue v Stevenson 1932 UK HOL	237	3/2 split Maj: L Atkin Diss: L Buckmaster	Duty	P = drinks g beer D = manufacturer P wins	P's friend bought Gbeer P drunk bit, noticed snail P suffered shock + gastroent	- Personal injury - No contract between the parties - No R opportunity for intermediate inspection P couldn't have R avoided the harm - Manufacturer/ultimate consumer relationship	Ds must take reasonable care to avoid acts/omissions which they can reasonably foresee would be likely to injure their neighbour (persons who are so closely and directly affected by D's actions that D ought reasonably to have them in contemplation as being so affected by act/omission). D relied on Mullen: similar case with mouse + no duty
					3 PARTY		
Home Office v Dorset Yacht Co Ltd 1970, UK HOL	245	L Reid + L Diplock	Duty (ext) 3P	P = Yacht owners D = Home Office - Borstal Officers 3P = Borstal trainees (prisoners) P wins.	The Borstal institution took prisoners to island for rehabilitation. Officers went to bed, and trainees escaped + boarded D's yacht causing damage.	Borstal officers worked for the government - acting in a governmental framework. 3P acted with conscious volition. Supervision capacity - CONTROL over boys. Didn't carry out their direct orders to maintain control.	Case expands duty of care DOC owed: in supervisory situations (all situations where govt supervises X, and there is the possibility that X may harm Y). Policy implications: SOP. Civil courts shouldn't cut across public power with tort. Discretion from governmental officials must be exercised carefully - comes a point where it is so careless/unreasonable that one can sue. Policy outcomes to be considered: maybe officials will be less likely to experiment with rehabilitative measures. (However postulated that officers were made of "sterner stuff") + wouldn't be affected
Smith v Littlewoods 1987, UK HOL	366	L Mackay + L Goff	Duty (ext) 3P	P = other properties D = cinema owners 3P = delinquent youths D win!! (wrong) No duty!!!	D left empty cinema abandoned. Could have had old film inside (v flammable). Kids broke in and set the fire. Fire spread to the neighbours, who were VERY close to the cinema.	Cinema has flammable old film inside. Cinema has sign outside with contact details. Group of delinquent break in and burn down cinema .	Lord Mackay decided the case as said it was not reasonably foreseeable as the neighbours were in the greatest position to be harmed, and as they didn't complain - the risk was NOT RF. Mentions Stansbie + Haynes. Lord Goff: theoretical approach. Says outside special circumstances there is no duty for pure omissions - personal autonomy, this would be an unreasonable burden on property owners. We owe a duty when: - D creates the source of danger eg. Haynes w/ horse - Source of danger could attract wrongdoers eg. fireworks in garden shed. Case decided WRONG! - Wrong to leave abandoned building: this wasn't considered - Was not a case of pure omission, the landlords still bought the property (going to build a supermarket) - THEY managed the building project negligently - this just gives more money to property owners! Distinction between omissions and duty to guard gets hard.
Couch v AG 2008, NZ SC	375	Elias (+ Anderson) Tipping (Blanchard + McGraph): MAJ	Duty (ext) 3P	P = woman working as assistant manager at RSA D = Probation service (+ officer) 3P = prior employee of RSA P wins preliminarily - no strike out, sent back.	3P was on parole after being sentences to 5 years imprisonment for aggravated robbery of a petrol station. Physiologists say he had a high risk of reoffending. 3P entered his previous workplace + badly injured the P. P sued D for exemplary damages (bc couldn't get lump sums from ACC at time). D tried to strike-out the application bc P's SOC was really bad.	- high risk of reoffending - similar past episode - #P needed $, which was on the premises - 3P knew about security system - the P was in a special group that the D should've protected	3 issues with duty: omission, public authority + 3P shit (Tipping J). Q: was there a duty owed by Probation Service to person in position of Ms Couch to take care in there supervision of parolees? eg. warning RSA or providing 3P with support. Elias + Anderson CJJ - conventional proximity + foreseeability + statute helps them here. Risk must be clearly apparent (similar to Mackay)
Michael v Chief Constable of South Wales 2015, UK SC	/	/	Duty (ext) 3P	P = woman (died) D = Police 3P = killer ex bf D wins.	Woman with bf, ex turns up. Ex threatens to kill her, then leaves to drive bf home. P calls D, tells all - D doesn't prioritise call. Ex (3P) kills P.	- policy reasons - special risk was satisfied	Court didn't like Couch majority - basically said: even if we divide up and make it so police only liable to a certain class, policy problems still exist eg. public resources argument, and public authorities being liable under private law. HATE COUCH, even in a perfect case.

Case	pg	Judge	Topic	Parties	Fact summary	Material facts	LAW
					NEG MIS		
Hedley Byrne v Heller & Partners 1964, UK HOL	399	L Reid, L Morris, L Devlin	Duty - NM	P = advertising agents D = Bank D win bc disclaimer	Agents were liable for orders made by a company, and asked D whether the company was stable. D gave favourable credit references, which were misleading and agents lost 17K pounds.	- Disclaimer to fault given -	Began general DOC w/ statements. D argues: no precedent AND pure economic loss case Factors: assumption of responsibility, D had special skill/ knowledge, and payment.
Scott Group Ltd v McFarlane and Others 1978, NZ CA	408	Richmond P, Woodhouse J, Cooke J	Duty - NM	P = Scott Group (taking over company) D = auditors Ds win Overall = yes duty but no liability (no loss).	Auditors (Ds) audit some accounts, which show company is ripe for takeover (big assets, low profits).However, there is an error in the accounts which means the company looked better than it actually was. P takes over company - is pissed.	P didn't get as great a profit, but still didn't make a loss. It was very foreseeable that the company was ripe for takeover.	There is a DOC to company outsiders where it is obvious that the company is ripe for takeover. Woodhouse J: DOC + loss (people trust audits, public record, no intermediate exam, auditors professionals). Could say Woodhouse J's approach is still valid: takes into account many things. Cooke J: Yes duty, no loss - profit. Company purchasing all the shares more directly/closely affected than ordinary purchaser. Looks at the likelihood/F of reliance - takeover must rely on accounts. Richmond P dissent duty- no DOC (Caparo style) - relationship not proximate enough/special. DOC requires D to be aware that particular person/class likely to rely on info. Not enough. Overall - says grounds for liability are in F. SO F bc ripe for takeover. However was rejected in Caparo (and endorsed Richmond P).
Caparo Industries v Dickman 1990, UK HOL	416	L Oliver,	Duty - NM	P = shareholder in entity D = auditors Ds win. Persuasive to NZ courts.	P owned shares in company, bought more before + after audited accounts were released. P took over whole company bc seemed to be in a good place (1.2Mp profit) BUT they actually overpaid their shares (0.4Mp loss). CA found there was duty to insiders, but not to all: shareholders are more proximate.	The purpose of the report was to hold management accountable, not so individual shareholders could buy shares.	P says DOC to all, as takeover could've been foreseen (as in Scott) OR: Auditors should have anticipated company insiders (eg. P) relying on the accounts. Rejects Scott - all about purpose of the information - for accountability not personal profit. Arbitrary distinction between insiders + outsiders: doesn't matter whether you were/n't a shareholder before, you both bought shares and lost? No difference between personal fortune and company takeover bid. Either: DOC for both (like Scott) or neither. Neither due to purpose. DOC found to shareholders as a group for managerial purposes.
Boyd Knight v Purdue 1999, NZ CA	426	Blanchard J	Duty - NM	P = investors in finance company (wide) D = auditors in co. P win on duty, lose on causation.	Burbery was a finance company, lending and borrowing $ - it was defaulting + defrauding however, and the auditors did NOT detect this, hence they published a report which overstated the co's profits. The company collapsed. Class of Ps very wide: (auditor's report for prospectus was to rely on and make sensible investment decisions).	The Securities Act 1978 required an auditor's report. Purpose of Act was to give public adequate information about companies, and to allow them to make good investment decisions. Normally auditors inform and don't advise - the report has no context for anyone who has not read the accounts: no obligation to someone who has not read the accounts.	Caparo-esque analysis bc emphasises purpose info provided. Factual situation different: In light of the requirement of the report in the prospectus, sufficiently proximate relationship existed (purpose of Act was to give public adequate info about co). Actual reliance was not found because the P only read the report, and not any of the accounts. You can't reasonably rely on just the report.
					BUILDING		
Dutton v Bognor Regis Urban District Council 1972, UK CA	/	/	Building cases	P = homeowners D = local authority	P's house was built on rubbish dump, therefore had faulty foundations. P sued local authority for negligent inspection.	/	No real distinction between physical damage and pure economic loss (L Denning)
Anns v Merton London Borough Council 1977, UK HOL	/	/	Building cases		Owners/occupiers might have suffered injury to health caused by defective foundations	/	Expansive approach - LA has duty to owners. Damages recoverable - enough to restore the building to a condition where not imminent danger to health/safety.
Bowen v Paramount Builders (Hamilton) Ltd 1977, NZ CA	/	/	Building cases		House has faulty foundations, which over time caused a source of danger to inhabitants.	/	Builder owed a DOC to **subsequent purchasers of a house.**
Steiller v Porirua City Council 1986, NZ CA	/	/	Building cases		?	/	CA confirmed liability did not depend on threatened injury to health and safety. Duty extended - reduction in house value. Builders duty was to build a reasonably sound structure, using good materials and "workmanlike" practices.
Murphy v Brentwood District Council 1991, UK HOL			Building cases		/	/	UK case rejected Anns - LA shouldn't be liable if builder can't - pure economic loss is bad: contract, should've bargained better.
Invercargill City Council v Hamlin 1996, NZ PC	/	/	Building cases	P wins.	House inspected and approved by Council. Doors stuck and cracking problems (foundations were negligently installed).		AT HC: Cooke P says "Homeowners rely on local authorities to exercise reasonable care" + Richardson J points to the distinctive parts of the NZ housing market (fuck Murphy). Crack in floor - both physical and economic loss. CA declined to follow Murphy.
North Shore City Council v Body Corporate No 188529 (Sunset Terraces) 2013, NZ SC	/ 465		Building cases		Housing market becomes more commodified - this building mix of rental (investment) + owner occupied.	building mix of rental (investment) + owner occupied.	**Hamlin** upheld despite housing market changes- isn't limited to only stand-alone single dwelling housing. **Policy:** don't want things ending up as housing being shit and on market. **D argue:** reasons don't apply as this is investment vehicle. However Hamlin applies.
Body Corporate No 207624 v North Shore City Council (Spencer on Byron) 2013, NZ SC			Building cases		/	Building mix of individually owned hotel units + residential apartments.	D argues: this is only an investment unit. No - held it was fine.
Southland Indoor Leisure Centre Charitable Trust v Invercargill City Council 2017, NZ SC			Building cases		Roof of leisure centre collapsed. Not residential at all!	/	Issue: code compliance certificates. Contributory negligence principles apply. Hamlin principles were found to kind of apply.

Case	pg	Judge	Topic	Parties	Fact summary	Material facts	LAW
					OVERLAP		
Henderson v Merrit Syndicates Ltd 1995, UK HOL	499	L Goff	tort + CONTRACT		Pure economic loss.	/	Duties of care can coexist: claimant can choose which remedy is best unless contracted out of tortious liability.
Turton v Kerslake 2000, NZ CA	503	Henry + Keith JJ Thomas J dissent	tort + CONTRACT	P = contractor doing mechanical services D = engineering firm D wins	New hospital is being built Problem with the heating system (which was done to specifications) Health board wants compensation for bad heating - looks to Turton. Contractor (turton) sues for $ for remedial work.	Big complex contractural network.	In the context of a contractural framework, negligence should not give a party more than they paid for, in terms of the ability so shift risk. Thomas J dissent: primacy of contract bad
Takaro Properties v Rowling 1987, NZ PC	/	/	tort + JUD REV	P = US businessman D = Minister of Finance D wins.	P wants overseas investors. D refuses permission. Company JRs, saying minister took account of irrelevant matters. Company collapses due to delay - sues in tort for $:	- JR claim	Can't cut across public law obligations.
South Pacific Manufacturing Co Ltd v New Zealand Security Consultants & Investigations Ltd 1991,	/	Cooke P, Richardson, Casey, Hardie Boys JJ and Sir Gordon Bisson	Duty structure + tort + DEFAM	P = sues also in defam D wins		/	Can't cut across defamation - balance of competing interest. Defamation in particular is so concerned with balancing.
CBS Songs Ltd v Amstrad Consumer Electronic plc 1988, UK HOL	/		tort + COPYRIGHT		owners of copyright sued cassette for neg selling product that allowed copying.	/	Can't cut across copyright - everything is in the Copyright Act.
					VL + NDD		
Armes v Nottinghamshire County Council 2017, UK SC	47 Gre	Lord Reed +3 L Hughs dissent	VL	P = abused child D = local authority	D placed P with foster parents Foster parents physically + sexually abused her		NDD: No. Parents/etc. have DOC to choose child-minder. LA like parent here. This would cut across family life too greatly (babysit all the time!!) Statutory framework indicates LA "discharges" duty by placing well (NDD would be inconsistent w/ stat structure, underscored by powers of inspection- statute thought that they would be inspecting and ASSIGNING). VL: Christian Brothers factors. Foster care - LA has control, placement creates risk. Broadly similar to S v AG (2003). YES.
Christian Brothers Case 2012, UK SC	/	/	VL		Priests sexually abusing children - is the Church liable?		
Pemberton v Downer - 2018, disputes tribunal	/	Referee: J Robershawe	NDD + joint and severable	P = Man driving down road D = Downer NZ	Stone chips damaged P's car after truck went past (potentially speeding) - the road was not well fixed.		Downer liable for subcontractor due to it being a NDD. Duty, breach, causation, remoteness all discussed.
					OTHER	**ELEMENTS:**	
					BREACH		
Blyth v Birmingham 1856 UK Exchequer Court	288	Anderson B Bramwell B	Breach	P = flooded house D = faulty plug in water pipe D wins.	BIG FROST - plug malfunction in D's water pipe and P's house gets some of the flood	- Big unforeseen frost - Plugs properly made - Ds took enough precautions	Standard of care is NOT strict liability A RP wouldn't have inspected their plugs after every frost - so no liability.
Bolton v Stone 1951 UK HOL	291	L Reid	Breach	P = injured P struck by cricket ball D = Cricket club D wins.	- Cricket ball hit person on road - went further than expected. - Road was normal road	- Low likelihood: average 1 ball every 3yr on road (not hitting person) Lower likelihood of hitting person (1 in several 1000 years) - High severity of consequence i.e. death -	Interplay between the factors - with a higher likelihood of damage, the cricket club would've had to have feared the cost of preventative measures/stopped cricket. The event itself was RF but risk was SO small. Was the risk of damage so small that the RP in the Ds shoes would've refrained from protecting against it? If action had been illegal, Bolton would've been decided differently (says WM2).
Wagon Mound (No 2) 1961 UK PC	293	L Reid	Breach	P = Ship owners close to wharf, set on fire D = Engineers who let oil into harbour P wins.	Ship crew let oil carelessly drift on water in harbour. Welders on wharf let sparks fly onto water + cotton waste ignited. Ships and wharves caught fire.	- Very small likelihood of damage (at time, experts thought waste alighting was very unlikely)	Small likelihood of damage/exceptional circumstances, BUT illegal - VERY low social benefit. The engineers should have known about the risk, should have found the oil leaking in a short time and shouldn't have discounted it.
Watt v Hertfordshire 1954 UK CA	290	Singleton LJ Denning LJ	Breach	P = firefighter D = City council (for the firefighters association) D wins.	Emergency call that a woman was trapped aprox 200m away V heavy jack loaded onto lorry, couldn't tie jack down Driver braked suddenly - jack harmed P Not often need the jack (only one vehicle could take it) P claimed should be a vehicle at all times to carry jack OR should've called another station	- Only 200m away - Couldn't have waited 10 minutes - No other vehicle could've done it	Denning: When measuring due care yo must balance the risk against the measures necessary to eliminate the risk AND: you must consider social utility of actions.
Tomlinson v Congleton Borough Council 2003 UK HOL	297	L Hoffman	Breach	P = dumb person who dived into lake D = City Council D wins.	D was super dumb, and dived into a shallow lake, breaking his neck.	- D's choice - Others enjoyed the lake	Free will is a consideration - when the P is the "author of their own misfortune", should not be able to sue. Their fault + shouldn't limit socially good activities.
Goldman v Hargrave 1967 UK PC	296	L Wilberforce	Breach (exception)	P = Neighbour D = Dude who's tree caught on fire during storm P wins.	Electrical storm - his tree caught fire Guy's tree caught fire. He cleared area, used some water, + got it felled. Guy let tree burn out rather than put it all out. 3 days later - Fire revived + spread to neighbours' house.	- Danger was from something outside his control - may have not had enough water	Interesting - clashes with Bolton a little bit. Individual circumstances are relevant to some extent. No requirement for: "excessive expenditure of money" or "physical effort of which he is not capable". Less must be expected of the infirm. *Breach if you: know of hazard, can foresee the consequences of it remaining, and you have ability to abate it.*

Case	pg	Judge	Topic	Parties	Fact summary	Material facts	LAW
Bolam v Friern Hospital Management Committee 1957 UK QB	301	McNair J	Breach (exception)	P = Guy with depression being treated D = Hospital D wins.	P was ECT shocked for depression, suffered fracture because of a convulsion. P says should have been sedated. One medical opinion = sedate. Others say no because sedation is dangerous.	- Specialist opinions did differ	Where specialist opinions differ (and these differences are well backed-up), courts can't "decide for" the specialists. AFTERWARDS: Montgomery in UKSC 2015 says that patients need to know both sides and make the decision themselves.
Nettleship v Weston 1971, UK CA	300	L Denning	Breach - standard driver	P = driving instructor D = learner driver P wins.	P was a learner driver + lost control of the car, hitting a lamp post and injuring D (in the car).	- learner driver - hit lamp post - Reasonable driver wouldn't have	"incompetent best is not enough" Standard of a learner driver is strict - it is that of a reasonable driver - skill and experience do not affect the standard of care expected.
Cook v Cook 1986, AUS HC	300	MAJ	Breach - standard driver	P = learner driver D = in car	P drove car into concrete electricity post, and D (in car) was injured.	learner driver etc.	P can only be judged by the standard of a unskilled and inexperienced driver - lower standard. Shit BAD LAW
Imbree v McNeilly 2008, AUS HC	/	/	Breach - standard driver	P = learner driver D = passenger	P crashed car and D (in car) was injured.	learner driver etc.	Followed Nettleship and overturned Cook - a lower standard of care is undesirable.
Matheson v Northcote College 1975, NZ HC	145	McMullin J	Breach	P = neighbours D = school 3P = children throwing fireworks, fruit etc			Damage was Natural and probable consequence of letting pupils play unsupervised. The teachers KNEW about the problem and let it continue - more than highly likely standard.
				CAUSATION			
Barnett v Chelsea and Kensington Hospital Management Committee 1969 UK QB	315	Nield J	Causation in FACT	P = wife of dead guy (suing for him) D = Hospital people D wins.	3 guys said they'd been vomiting for ages after drinking tea (arsenic) Advised to go home and contact own doctors One then died + widow sued. BUT even if men had been treated with reasonable care, still not enough time to get antidote.	- P would have died anyways - Reasonable staff would not have sent the P home	"But for analysis" Basically you have to compare the P's actual position with what the position would have been if the D had fulfilled his duty of care.
Fairchild v Glenhaven Funeral Services 2002 UK HOL	NA	?	Causation in FACT: multiple pot causes	P = asbestos employee Ds = all his employers P wins.	Employee worked for 3 different employers, all of whom were negligent with asbestos (as finding of fact). X got sick, any could be responsible - no way to tell. Don't know who caused the HARM but all exposed him to the RISK.	- All employers exposed P to the RISK - Unable to determine which one exactly caused the HARM	Bit controversial -didn't have to really show causation. Employee could recover against ANY of his employers (each had negligently exposed him to risk of injury through breathing in asbestos). Severable liability here probably.
Ambros v ACC 2007 NZ CA	333	Glazebrook J	Causation in FACT + ACC with factual uncertainty	P = patient D = hospital	P had SCAD (heart condition) - everyone knew. SCAD + childbirth = risk of death P gave birth one week later heart attack, one week later hospital, died Treatment issue: consultant didn't take a # of steps. Death could've been 1) Underlying illness 2) Treatment injury	- Stats say had she been diagnosed 51% chance she would have lived - Failure to treat her was close to her death - Treatment WAS available	P still must show causation: appropriate to look at the evidence "robust approach". Legal actors can draw conclusions with factual causation when scientists ay NOT because we are addressing a social problem: sometimes science is just too uncertain. This SHIFTS the tactical burden to disprove - although P still has to prove.
Scott v The London & St Katherine Docks Co 1861 UK Exchequer Court	311	Erle CJ	Causation in FACT - res ipsa	P = injured man D = warehouse/ crane owner P wins	Ds were lowering bags of sugar onto the doc with a crane when the crane fell on the P.	Ds action was so obviously negligent (so D had to prove otherwise)	Burden of proof shifts when 3 things happen: 1) the thing/event causing harm was in D's control 2) accident usually doesn't happen w/out negligence 3) no explanation for the accident
Hawkes Bay Motor Co Ltd v Russel 1972, NZ SC (old)	311	Beattie J	Causation in FACT - res ipsa	P = car driver hurt D = car driver on wrong side	D failed to turn round a bend properly and ended up on wrong side of road - CRASHED into P (who was driving correctly). D says they blacked out.	Ds action pretty obviously negligent.	P must still prove negligence but facts of this kind can provide circumstantial evidence of causation: "these facts speak to causation loudly".
				REMOTENESS			
Re Polemis	/	/	Remoteness	/	Freak accident which was unforeseeable. Negligent dropping of plank and explosion.		D is liable for all direct results of their actions, even completely unforeseeable/remote. Re Polemis (shit for D)
Wagon Mound (No 1) 1961, UK PC	341	Viscount Simonds	Remoteness	P = Dock owner (+ welding) D = Engineer+ship putting out oil D win.	Ship delivers oil, fills up: going to leave. Fault valve - all spews out. Ship crew let oil carelessly drift on water in harbour. Welders on wharf (controlled by P) let sparks fly onto water + cotton waste ignited. Ships and wharves caught fire. Oil tanks explode. ALSO damage to the wharf from oil congealing.	- Finding of fact was that damage by fire was NOT foreseeable - Fire damage was the direct result of carelessness of escape of the oil	Overall: D only liable for the type of damage that is RF. TACTICAL SHIT: - WM1 damage by fire not RF but was direct (P agreed bc contrib neg would've negatived). - WM1 (good for D), Wagon Mound (No 1) WM (No 2) **Damaged** Fire+oil-wharf **Fire - ships** **About** breach/ Remoteness **Fire damage** Not F/ Foreseeable **Outcome** NOT liable 2 dock// liable to ship
Hughes v Lord Advocate 1963 UK HOL	343	L Guest	Remoteness	P = two boys D = Workers fixing the manhole P wins.	Paraffin lamps around tent/manhole on busy road. Children playing near on Saturday. Lamp knocked into a manhole, causing an explosion - children were burnt.	- Injury by fire was foreseeable - Explosion (way it happened) was unforeseeable	As long as the TYPE of harm is RF, HOW the damage happened need not be. D's argument would've been WAY too easy: that how the damage happened needs to be F as well.
Stephenson v Waite Tillman Ltd 1973, NZ CA	346	Richmond J	Remoteness	P = hurt rusty rope employee D = employer P win.	P worked with a rusty, frayed rope and cut his hand. P washed hand, and was infected with unknown virus - brain damage + other severe consequences.	- P had an underlying condition - Brain damage was NOT RF from injury + were caused due to underlying condition	Egg shell skull principle IN personal injury cases is NOT altered by WM1. Only personal injury bc it's super important + injurer needs to shoulder burden bc life is so precious. If you directly/negligently injure someone, even if the consequences are NOT RF (due to P's condition) - D still liable for the full extent of the damage. FOLLOWED: Smith v Leech Brain & Co Ltd 1962 Molten metal splashed onto worker - worker then got a rare form of cancer.

Case	pg	Judge	Topic	Parties	Fact summary	Material facts	LAW
					ACC		
McGougan v DePuy 2018 NZCA	Gre 12	?	ACC	P = injured guy says ACA no apply D = knee people saying ACA applies therefore 317 bars D wins.	P's knee blew up while in NZ, but the parts were made by the D manufacturer overseas.	- D + reason for the accident overseas	- Conduct giving RISE to the injury doesn't need to be in NZ ARGUMENTS: P (act doesn't apply): s317 must be narrowly read bc excludes court access **REBUT:** bc provides universal coverage. P: lots of exceptions where 317 doesn't apply eg. edam **REBUT:** not exception - not compensatory P: Parl signalled s317 not perfect in s32 of Sentencing Act giving reparation in crim sentencing to make up for 317 problems P: social contract purpose (manufacturers who don't contribute)
ACC v Booth 1990, NZ HC	/		ACC	P = ate sausage D = ACC	P ate savloys on a ship and was violently ill.	Vehicle for illness = sausage.	Sausage = mucus. Both are vehicles for illness, therefore food poisoning is same as flu: not covered.
Ambros	/	/	/	/	/	/	Distinction between treatment injury v illness - real problem is: did she die bc underlying condition or treatment injury? Evidence points towards treatment injury (go back to causation)
G v Auckland Hospital Board 1976, NZ HC	/	Henry J	ACC - deliberate	P = raped patient D = employee of hospital P wins.	G was raped by an Auckland Hospital employee, and sued for mental and physical injuries.		Intentional harm is still covered by the act, despite that not being the main purpose of the scheme.
Donselaar v Donselaar 1982, NZ CA	569	Cooke J	ACC + EDAM	P =	Brothers fought, Andrew attacked John with a hammer, knocking him unconscious - hospitalised.	BEFORE s319 re edam.	ACC normally directed at negligence not deliberate actions (although latter is covered still).
Queenstown Lakes District Council v Palmer	/		ACC + 2ndary mental injury coverage	P = husband D = District Council P wins.	Woman fell out of raft + died, husband saw her drown. Husband suffered mental injury and tried to sue. D argued was barred by s317.		Husband's mental injury was not covered, meaning he could sue DC. District Council argued mental injury arose from accident (therefore barred by s317) s317 only bars claims made by the person themself.
A v Bottrill 2003, NZ PC	572	L Nicholls	ACC + edam	P = patient D= pathologist	Pathologist misread four of her smears, meaning that the P waited a long time and ended up having to need surgery that left her infertile - this was subj. negligence I thiiiink	/	Both subjective and objective negligence can lead to edam - don't want to limit just in case they'll need to signal disapproval even if no thinking about negligence. THIS WAS OVERTURNED.
Couch v AG (No 2) 2010, NZ SC	573	Tippin J maj Elias CJ diss	ACC + edam	P = injured employee D = probation service 3P = prior employee of RSA	3P was on parole after being sentences to 5 years imprisonment for aggravated robbery of a petrol station. Physiologists say high risk of reoffending. 3P entered his previous workplace + badly injured the P. P sued D for exemplary damages (bc couldn't get lump sums from ACC at time).		Subjective negligence required - NOT objective. Factual question is more aligned with punitive purpose - don't punish people who are dumb/didn't appreciate the risk. Elias dissents - agrees with Bottrill that edam shouldn't be restricted. Edam arises out of conduct.
Daniels v Thompson 1998, NZ CA	/	/	ACC + edam	/	/	/	Conviction or acquittal in criminal action bars a civil action for edam - or when prosecution is likely. This dos NOT apply to areas of law without criminal law eg. defamation.
McDermott v Wallace 2005, NZ CA	/	/	ACC + edam	P = pilot D = senior pilot	P was pilot undergoing continuing training, including a flight under supervision of D. P seriously injured when D took over control of the plane.	/	Example of subjective negligence.
Allenby v H 2012, NZ SC	Gre 34	Elias CJ, Blanchard maj Tipping J	ACC preg	P = woman (joined her: ACC) D = doctor	Sterilisation procedure. Consensual sex. Pregnancy. H tries to sue hospital. Hospital argues that she is covered by ACC, and that therefore s317 applies (no suing)	- contraceptive failed - consensual sex	Mental injury from pregnancy following a failed sterilisation procedure IS personal injury. Elias CJ: coverage under prior regime as med misadventure didn't require injury Pregnancy following rape covered. Currently - pregnancy is "injury" even though gradual. Majority: agreed coverage under old Act "Personal injury has an expansive def As prior regime covered pre from rape, Parl needs to be specific about declassifying Gap in law if impregnation not covered but sexual violence is Preg was in case of med error Injury = similar to undetected tumour INFORMED CONSENT TOUCHSTONE Question: why is condom breaking + preg not accident + personal injury? MAJ says bc consent to sex is consent to injury.
Adlam v ACC 2017, NZ CA	gre 23	Cooper J	ACC treatment	P = child born disabled D = ACC D wins - NO COVER	Mum had a fever - D did C-section as soon as symptoms came up. Baby born with problems. P wants coverage under s33(1)(d): failure to provide treatment. Small amount fault is required (ACC win - no coverage)	- no observable indicators that treatment should have been carried out earlier - if treatment had been carried out earlier, the P would not have been born with disabilities.	Q - is fault required? (D did the best they could): In this case is "failure" when C section could've been performed earlier but it was not yet indicated (P, wide) or is "failure" limited to where there was an indication that a C-section should have been performed? (D, narrow) Using medical misadventure regime. Looked at leg history - explanatory notes leg context, other uses of "failure" in the act Injury said to be treatment injury must be consequences of a departure from appropriate treatment choices & treatment actions - not negligence, but a lil bit of it.