

Pure Economic Loss/Negligent Misstatement

Negligent Misstatement (*Hedley Byrne*)

Two elements (*MLC v Evatt*)

1. Knowledge of defendant, actual or attributed, that the plaintiff is likely to rely on the information
2. Reasonable reliance by plaintiff on information

Special skill

Not required (*Evatt*)

Reasonable reliance

Formality (*Shaddock*)

Request (*San Sebastian*)

What may not be reasonable (*Tepko*)?

1. Ballpark
2. Reluctant
3. Access to other advice
4. Unaware

Pure economic loss (*Caltex Oil Australia*)

Five relevant principles for pure economic loss cases (McHugh J in *Perre*)

1. Reasonable foreseeability of loss
2. Indeterminacy of liability
 - a. Could the defendant have ascertained who they were? (*Johnson Tiles*)
3. Autonomy of individual (law will not interfere if person legitimately pursuing commercial interests)
 - a. General rule is no duty will be owed (McHugh J in *Woolcock*)
4. Vulnerability of plaintiff to risk
 - a. Inability to protect themselves from the defendants lack of reasonable care (*Woolcock*)
5. Knowledge by defendant to risk and magnitude

Policy? (*Woolcock; Sullivan v Moody*)

Rulings

Defects in residential buildings (*Maloney*)

Not applicable to commercial buildings (*Woolcock*)

No duty was owed to the original building owners