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DUTY OF CARE

Generally

Donoghue v Stevenson [1932] AC 562

- Neighbour principle refers to the reasonable foreseeability of harm in positive acts ... NOT omissions
- General manufacturer's liability to consumers for defective products

Chapman v Hearse (1961) 106 CLR 112

- "Ask whether a consequence of the same general character as that which followed was reasonably foreseeable as one not unlikely to follow"
- Broad test = "a class of persons of which he was one" and "a consequence of the same general character"

Medical professionals

Rogers v Whitaker (1992) 175 CLR 479

- Medical practitioners owe their patients a 'duty to exercise reasonable care and skill in the provision of professional advice and treatment'

Duty owed to rescuers

Chapman v Hearse (1961) 106 CLR 112

- Where a person's negligent act is likely to result in the need to be rescued, that person owes a duty of care to the rescuer who would not be in danger if not for the original negligent act

Wicks v State Rail Authority (2010) 241 CLR 60

- Examined the impact of s 30(2) of the CLA, which says damages can only be recovered for pure mental harm if the plaintiff witnessed at the scene the victim being killed/injured/put in peril, or if a close member of the family
- The victims continued to be in 'peril' until rescue was completed and thus the rescuers witness this at the scene

Omissions/scope of duty of care

Romeo v Conservation Commission of the Northern Territory (1998) 192 CLR 431

- Scope of the general duty of care
- "Reasonable steps" ... if they fenced off the cliff side here then they would have to do so at every other point, which is not reasonable
- It was an obvious risk and therefore "the elements of foreseeability and risk were satisfied in this case"