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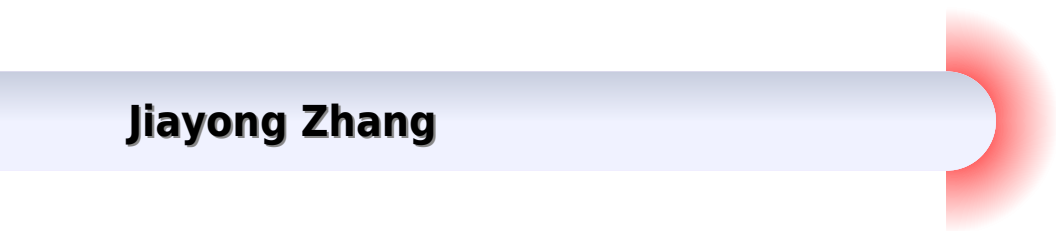
**Aggregation and Divisibility
of Damage**



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Aggregation And Divisibility Of Damage Tort And Insurance Law

Jiayong Zhang



Aggregation And Divisibility Of Damage Tort And Insurance Law:

Aggregation and Divisibility of Damage, 2009 Whether the harm for which compensation is sought in an action in tort is regarded as a single indivisible loss or a plurality of losses can have a number of important ramifications for the law of tort for example in considering compensable damage the apportionment of responsibility between multiple tortfeasors and the application of limitation periods and where they exist caps and thresholds These issues may have particular significance in the context of mass torts and raise questions of private international law and civil procedure as well as substantive tort law They are also of co *Aggregation and Divisibility of Damage* Ken Oliphant, 2009-12-17 Whether the harm for which compensation is sought in an action in tort is regarded as a single indivisible loss or a plurality of losses can have a number of important ramifications If there are several losses it may be that more than one of the claimant's interests is affected and that only some of his losses are considered to be recoverable damage Whether or not consequential loss is regarded as an independent harm to be addressed separately or as part of the whole damage also bears upon this question of recoverability as well as upon the application of statutes of limitation of action Where there exist liability caps and minimum damage thresholds the question may arise whether these apply once only to the whole of the claim or to each of several different components of the overall claim A plurality of losses may also be reflected in the application of the laws of contributory negligence These problems relating to the divisibility of damage may be particularly pressing in cases where there are multiple claimants or multiple defendants If two or more claimants have rights over the same damaged property e.g. as joint owners or as owner and licensee whether they are regarded as having suffered the same loss or independent losses may have implications for the claims they can bring **Proportional Liability: Analytical and Comparative Perspectives** Israel Gilead, Michael D. Green, Bernhard A. Koch, 2013-10-14 Causal uncertainty is a wide spread phenomenon Courts are often unable to determine whether a defendant's tortious conduct was a factual cause of a plaintiff's harm Yet sometimes courts can determine the probability that the defendant caused the plaintiff's harm although often there is considerable variance in the probability estimate based on the available evidence The conventional way to cope with this uncertainty has been to apply the evidentiary rule of standard of proof The application of this all or nothing rule can lead to unfairness by absolving defendants who acted tortiously and may also create undesirable incentives that result in greater wrongful conduct and injustice to victims Some courts have decided that this no liability outcome is undesirable They have adopted rules of proportional liability that compensate plaintiffs according to the probability that their harm was caused by the defendant's tortious conduct In 2005 the Principles of European Tort Law PETL made a breakthrough in this regard by embracing rules of proportional liability This project building on PETL endeavours to make further inquiries into the desirable scope of proportional liability and to offer a more detailed view of its meaning implications and ramifications **Causation in European Tort Law** Marta Infantino, Eleni Zervogianni, 2017-12-28 Through a comprehensive analysis of sixteen European

legal systems based on an assessment of national answers to a factual questionnaire Causation in European Tort Law sheds light on the operative rules applied in each jurisdiction to factual and legal causation problems It highlights how legal systems features impact on the practical role that causation is called upon to play as well as the arguments of professional lawyers Issues covered include the conditions under which a causal link can be established rules on contribution and apportionment the treatment of supervening alternative and uncertain causes the understanding of loss of a chance cases and the standard and the burden of proving causation This is a book for scholars students and legal professionals alike

Employers' Liability and Workers' Compensation Ken Oliphant, Gerhard Wagner, 2012-10-30 This large scale comparative study analyses the two principal mechanisms employed in modern legal systems to deal with the social problem of occupational illness and injury namely employers liability and workers compensation It provides a detailed description of the systems in operation in twelve countries around the world investigating the complex legal structures and the interaction with other social institutions as well as their inter jurisdictional coordination through private international law Current international trends are identified and assessed and the fundamental political issues highlighted and explored The study s ultimate goals are not only descriptive but also to answer the question of how compensation and liability systems can best be adapted to meet society s needs in the 21st century The countries covered are Australia Mark Lunney Austria Ernst Karner Felix Kernbichler Denmark Vibe Ulfbeck England and Wales Richard Lewis France Florence G Sell Isabelle Veillard Germany Raimund Waltermann Italy Alessandro P Scarso Massimo Foglia Japan Keizo Yamamoto Tomohiro Yoshimasa the Netherlands Siewert D Lindenbergh Poland Domenika D rre Nowak Romania Christian Alunaru Lucian Bojin and the United States of America Michael D Green Daniel S Murdock The book is completed by three concluding essays that address general themes Thomas Thiede The European Coordination of Employers Liability and Workers Compensation Ken Oliphant The Changing Landscape of Work Injury Claims Challenges for Employers Liability and Workers Compensation Gerhard Wagner New Perspectives on Employers Liability Basic Policy Issues

Comparative Tort Law Mauro Bussani, 2021-02-26 This revised second edition of Comparative Tort Law Global Perspectives offers an updated and enriched framework for analysing and understanding the current state of tort law around the world Using a critical comparative methodology it covers not only the common tort law issues but also many jurisdictions often overlooked in the mainstream literature Contributions explore illuminating case studies from tort systems in Europe the US Latin America Asia and sub Saharan Africa including new chapters specifically discussing tort law in Brazil India and Russia *Mass Torts in Europe* Willem H. van Boom, Gerhard Wagner, 2014-10-14 in recent years there has been a growing interest in the legal aspects of mass torts in Europe Both academics legislatures courts and policymakers throughout the whole of Europe have been struggling with the challenges that such massification of private law relationships poses both in and outside of tort law The subject moves between the law of civil procedure substantive tort law access to justice debates and regulatory frameworks for mass disputes This volume

offers both a kaleidoscopic review of real life key cases of mass tort and an in depth reflection on the broader implications of mass tort in Europe Thus the challenges posed by mass torts are explored mapped and analysed **Landmark Cases in the Law of Tort** Charles Mitchell,Paul Mitchell,2010-02-18 Landmark Cases in the Law of Tort contains thirteen original essays on leading tort cases ranging from the early nineteenth century to the present day It is the third volume in a series of collected essays on landmark cases the previous two volumes having dealt with restitution and contract The cases examined raise a broad range of important issues across the law of tort including such diverse areas as acts of state and public nuisance as well as central questions relating to the tort of negligence Several of the essays place cases in their historical context in ways that change our understanding of the case s significance Sometimes the focus is on drawing out previously neglected aspects of cases which have been undeservedly assigned minor importance Other essays explore the judicial methodologies and techniques that worked to shape leading principles of tort law So much of tort law turns on cases and there are so many cases that all but the most recent decisions have a tendency to become reduced to terse propositions of law so as to keep the subject manageable This collection shows how important it is despite the constant temptation to compression not to lose sight of the contexts and nuances which qualify and illuminate so many leading authorities

Modes of Regulation in the Intermediate Field Between Contract Law and Tort Law Jiayong Zhang,2023-02-17

The Impact of the UK Human Rights Act on Private Law David Hoffman,2011-10-13 The Human Rights Act 1998 has had a profound effect in numerous private law decisions and has been the subject of extensive academic debate in particular on the issue of the extent to which it has horizontal effect and its application in disputes between individuals With contributions from a variety of academics and practitioners this volume covers and contributes to the academic debate on horizontal effect and considers how theory matches up with case law the limits of the Act for private law and its impact on key areas including privacy defamation negligence nuisance property commercial law and employment Together the book provides a practical critique of the areas discussed which will be of academic interest to theorists and of practical benefit to lawyers and judges who wish to understand how the academic debates can be brought to bear in particular cases

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