

There is general duty  
under english tort law  
to rescue or assist  
other. there is ...

Law



Law of Torts: Exceptions Law of Torts: Exceptions The law of torts generally does not require for one to be duty bound to rescue another person. Various debates, however, have been conducted in relation to this but courts have refused to alter the judgment. This they mainly attribute to the value of individualism within the society that makes every person favor themselves especially in the face of danger and risk for survival. Another major reason is the unworkability of the rule requiring rescue due to definition of terms it is mandated and when it is not. The rising discomforts to this rule have led to various states giving exceptions to this rule thus stating the requirement by an individual to rescue another. This law they mainly bases on the exceptional situations such as where the need for rescue arises due to negligence of the expected rescuer or defendant. This is both when the negligence is with intent or fault free conduct. In a case of one party dependence or mutual dependence in life such as a ship captain and the sea man such duty is said to apply. Another exception is derived from a rescuer's intent to rescue. Once a person intervenes and objects to rescue they are obligated to have a duty and must not leave the victim in a worse off condition. It is also occasionally ascertained to be one's duty to rescue where a contract stating the same is available. Though there are uncertainties as per the terms and forms of contracts in this nature (scordato, 2008). In one case taken before the New Hampshire Supreme Court in 1898 the court judged in favor of the defendant. This was after an eight year old boy who trespassed into the premises of the defendant placed his hand in the defendant's machinery. In this situation the defendant was not obligated by any duty to rescue the boy, and could actually further place charges against

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the boy for trespassing. This can be attributed to the fact that they had no relationship of such a dependable nature, the defendant had no hand in the boy getting there, and that rescuing him could maybe have resulted him into bodily harm hence the individual nature to stay away. Another interesting case of this nature is one regarding reporters and paparazzi and their duty to rescue others from danger. This is because many times photos are publicized of the dying moments of people in crime scenes and accidents posing the thought whether the one who took the photo should have saved the persons life instead of taking the photo of their last breathing moments. This was brought into considerations and as current they do have the duty. As was applied in the case of investigation of the photographers at the fatal accident scene of Lady Diana. They were being investigated on their failure to conduct their duty in saving the life of the people involve. It was however established that the cause of the accident had nothing to do with the paparazzi hence they had no duty to rescue them (Graves, 2002). Plus they could have feared getting closer enough to help so took photos from a comfortable distance. Again, in any case the victims were pronounced dead on the spot hence could not have been saved under any circumstance. In the law or tort individuals have the duty not to cause harm to others. This means that in their actions they should do everything possible and foreseeable to ensure that they do not amount to cause of real harm to others. This may fall in situations such as victim and the doer are in a relationship such that the later cedes their ability to protect themselves as such the former becoming responsible in duty to make reasonable efforts to protect them. However, just like in any other laws there are exceptions to this law that have been

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established in various states such as America. These exceptions are there in the establishment that such conduct of activities causing harm to others was not intended or foreseeable by the doer. Such an exception was given in the case of *Palsgraf v. Long Island Railways Company* in 1928 (Smith, 2012).

Here the defendant sued the railways company because as they were standing on the platform of the railways company, a rail road employee assisted a man carrying fireworks wrapped in newspapers to board a train. The package became dislodged, fell on the ground and exploded throwing platform scales that hit the plaintiff. The courts ruled in favor of the defendant through lack of establishment of a relationship between the two that would bind the defendant to be having a duty to protect the plaintiff and whether the plaintiff was actually in a zone of foreseeable danger. This brought into view that in such a case the plaintiff must be able to show that the responsibility to protect was the duty of the defendant and not in lieu to general duty on society (Scordato, 2008). References Graves, D. (2002).

Diana crash caused by chauffeur, says report. London: The Daily Telegraph.

Scordato, M. (2008). Understanding the absence of a duty to reasonably rescue in American Tort law. Washington: Catholic university of America.

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