

Sources of Liability

- Direct Liability
- Indirect Liability
 - -Respondeat Superior
 - -Apparent Authority
- Immunity: no longer applicable

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Direct Liability

- · Immunity: no longer available
- Showing Negligence by
 - -Supervision & Monitoring
 - -Selection
 - -Unreasonable Utilization Review

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Respondeat Superior

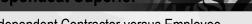
- Required Elements to prove Respondeat Superior:
 - Physical Harm to person or property
 - Scope of Employment
 - Employee Status (as opposed to Independent Contractor)

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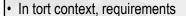
Respondeat Superior



- Independent Contractor versus Employee
 - Traditional Views
 - Nurse & Staff Employees (but Borrowed Servant)
 - Doctors Independent Contractor
 - Changes in Delivery -> New Approach
 - Focus on Control
 - Look at 2 cases to see how court applies control
- This is Secondary Liability must show underlying Negligence of Employee

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Apparent Authority



- Manifestation by Principal
- Reasonable Belief by Third Party that someone is Apparent Agent
- Justifiable Reliance on Skill of Apparent Agent
- Important in Health Care context if not enough control to be liable under Respondeat Superior
- This is Secondary Liability must show underlying Negligence of Apparent Agent

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