

Significant Change to Definition for Key Law Term

Dear NWCU Student,

I am sending this message to you now to remind you to use our revised definition for Proximate Cause. It is different than the one in the "Outlaws" that you may have used at the beginning of your first-year of law study. **In the revised definition you use the words "unbroken by" instead of the word "notwithstanding."** I want to be sure now that you are apprised of the change.

Proximate Cause is notoriously confusing and has long been the bane of both law students and lawyers. For that reason, we need to strive in every way possible to be sure that we don't make matters worse by using wording that could be misinterpreted when defining the concept.

My revised definition for Proximate Cause is better than the old one since the word "notwithstanding", which was used in the old one, can be problematic if it is not understood by the reader that it was used as an adverb. The word "notwithstanding", in the old Clancey's Outlaw definition of proximate cause, was used as an adverb to mean "aside from" or "apart from". It was not used as a preposition. Had it been used as a preposition it would have meant "even though there is" or "in spite of" or "despite"; the opposite of "provided that there is not."

NOTWITHSTANDING used as an adverb is very rare. So it would be best if we leave it out of the definition and use words in place of it that are more direct. Therefore, I revised that definition in the Torts Outlaws by removing the word "notwithstanding" and replacing it with the words "unbroken by."

I suggest to you that the word "notwithstanding" no longer be used by you when writing or referring to the doctrine of proximate cause.

The revised definition that I now recommend for your use is as follows:

Proximate Cause: Proximate Cause is an act which in a natural and continuous sequence of events, **unbroken by** unforeseeable, independent, intervening acts, causes injury to the plaintiff, without which the injury would not have occurred.

KEY WORDS AND PHRASES

1. *cause which **unbroken by** unforeseeable, independent, intervening acts*
2. *causes injury to the plaintiff*

By the way, the definition for proximate cause in the Torts Outlaw will work also for criminal law answers that involve proximate cause issues if you change the word "plaintiff" to the word "victim."

I think it would be a good idea for you to now print this message, cut the new definition out of it and then tape it to any older printed version of the Outlaws that you may have with an older or different version of the definition. And, of course, you should copy and

paste a digital version of the new definition in any version of those the Outlaws that you may have on your computer with an older or different version of the definition.

Again, be sure to remember that you need to use the words “unbroken by” instead of the word “notwithstanding” when you define Proximate Cause.

Best wishes,

Michael P. Clancey, Dean

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