



# Jus Corpus Law Journal

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## Case Comment: Donoghue v Stevenson (1932)

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### INTRODUCTION

The term 'negligence' refers to the act of one person failing to exercise the duty of care owed to another in such a way that it results in the victim or victim's property being injured or damaged. It is also possible for it to be an omission. When assessing whether or not someone's acts lack ordinary diligence, it is important to consider the following factors: the possibility that the person's activities may lead to injury, the severity of any potential injury, and the work necessary to eliminate or decrease the danger of harm. The Donoghue case, a legal controversy in Scotland, is a well-known instance in English law. It had a significant role in the development of the law of torts and, in particular, the doctrine of negligence<sup>1</sup>. This landmark judgment also gave rise to the 'Neighbours principle' by Lord Atkin. Lord Atkin's According to the neighbor principle, persons have a duty of care to avoid causing harm to anyone who might be adversely affected by their behavior.

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<sup>1</sup> 'Donoghue v Stevenson [1932] Doctrine of negligence' (*Lawteacher*, 22 October 2021)  
<<https://www.lawteacher.net/cases/donoghue-v-stevenson.php?vref=1>> accessed 13 February 2023

The *Donoghue v Stevenson case*<sup>2</sup>, which is even called the Paisley Snail or the Snail in the bottle case, was instrumental in establishing the duty of care theory in tort law. Before the *Donoghue v Stevenson* decision, common law did not offer much in the way of direction about the level of care that people and corporations owed to one another. It was ambiguous as to whether or not the manufacturers had a duty of care to the individual who would ultimately purchase the things that the manufacturer had produced. This question played a significant role in the *Donoghue v Stevenson* case. This article aims to provide a comprehensive analysis of *Donoghue v Stevenson*, including its history, the facts, and the legal difficulties involved.

## FACTS OF THE CASE

Donoghue along with her buddy traveled to the Wellmeadow Café, Paisley, where they placed an order for a Scotsman ice cream float, which is a combination of “ice cream” mixed with ginger beer. She then poured the ginger beer onto it from a brownish bottle that had a non-transparent lid that was labeled with the name D. Stevenson, Glen Lane, Paisley. She then ate a part of the Scottish ice cream float that was being served. To make matters worse, her friend placed the remaining “ginger beer” into a tumbler, whereupon a decomposing snail floated out. ‘Donoghue stated that she experienced nausea and abdominal pain as a result of seeing this, and she made this allegation. According to her later explanations of the facts, she was required to see a physician on the 29th of August and was admitted to Glasgow Royal Infirmary for emergency treatment on the 16th of September. Both events took place after she was compelled to see a physician. After further testing, it was determined that she was suffering from severe gastroenteritis and shock.’<sup>3</sup>

Ms. Donoghue then sued Mr. David Stevenson, the producer of the ginger beer, alleging that Stevenson violated his duty of care. She argued that Stevenson had a responsibility to guarantee that the ginger beer was free from any potentially hazardous items and that he had violated this responsibility when he allowed the snail to be in the bottle of ginger beer. It was claimed by

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<sup>2</sup> *Donoghue v Stevenson* [1932] UKHL 100

<sup>3</sup> Martin Taylor, ‘Donoghue v Stevenson Digital Resources’ (*Scottish Law Reports*, 2004)

<<http://www.scottishlawreports.org.uk/resources/dvs/mrs-donoghue-journey.html>> accessed 15 February 2023

Stevenson that he owed Donoghue no duty of care because she was not his direct customer and was not a party to the contract that he had with her. Stevenson primarily argued the following four points: that the claim did not have a foundation in the law; that the evidence was insufficient; that he had done no wrong to Donoghue; and that the requested compensation was excessive.

## LEGAL ISSUES

The question of whether a manufacturer or producer owes a duty of care to the end user of its commodities was one of the most important legal problems that arose during the case. Another point that needed to be answered in this case was whether the defendant had violated the duty of care that they were obliged to the claimant. This case raised discussions over the extent of the duty of care that manufacturers owe to the public in the form of consumers. When addressing these legal concerns, the court applied two legal concepts: the *principle of privity of contract* and the *principle of foreseeability*. These were the two factors that influenced their judgment.

## JUDGEMENT

**COURT OF SESSION, THE OUTER HOUSE:** The matter was initially presented before the Outer House of the Court of Session in June 1930, and it was presided over by Lord Moncrieff and Lord Towett. In the judgment that he handed down that very day, he concluded that by the principle "negligent food preparation" should result in legal consequences.<sup>4</sup>

**COURT OF SESSION, THE INNER HOUSE:** Mr. Stevenson appealed to the members of the Inner House. The case was presided by Lord Alness, Lord Hunter, Lord Ormidale, and Lord Anderson. They referred to a case with similar facts, *Mullen v AG Barr & Co Ltd*. Everyone else, except for Lord Hunter, agreed to accept the appeal.

**HOUSE OF LORDS:** On the 25th of February 1931, an appeal was filed by Ms. Donoghue to the House of Lords to challenge the ruling. On December 10 and 11, 1931, Lord Buckmaster, Lord Atkin, Lord Tomlin, Lord Thankerton, and Lord Macmillan deliberated on the appeal. The

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<sup>4</sup> Matthew Chapman, *The Snail and the Ginger Beer* (Wildy, Simmonds & Hill Publishing 2010)

appeal was considered after the petition was approved. On May 26, 1932, the House of Lords gave a judgment.

The court ruled that Stevenson had a duty of care to Ms. Donoghue. The court decided by a majority of three to two (3-2) that her case presented a credible basis for a legal claim<sup>5</sup>. Three people made up the majority: Lord Atkin, Lord Thankerton, and Lord Macmillan. Lord Atkin dismissed the claims favoring a more restrictive view of a duty of care, with this instance of carelessly poisoned food serving as an example. He did this by arguing that there was a duty of care to act with reasonable care. A duty of care to customers was also recommended, and he argued that it should be legally enforced against all producers of things of regular home use such as pharmaceuticals, personal care goods, and cleaning supplies. The verdict of the court was given by Lord Atkin, who stated that the idea of privity of contract was not a barrier to their being a duty of care owed. He then went on to develop the neighbor principle, which stated that a person owed a duty of care towards his neighbors. A person's neighbors are defined as people who are in such proximity to them and will be directly impacted by their conduct that it is acceptable to expect them to be considered. He went on to develop the duty of care principle, which stated that, a person owed a duty of care to their neighbors. In addition, Lord Atkin believed the principle of foreseeability should be taken into consideration when evaluating the appropriate level of care that should be provided. According to what he said, everyone has a responsibility to exercise the level of care that is appropriate to prevent behaviors or omissions that might have negative consequences for those around them.

It was decided by Lord Thankerton that there was no contract between Ms. Donoghue and Stevenson, and her circumstances did not match any of those for which a duty of care had been created in the past. Nevertheless, Lord Thankerton concluded that in situations in which the goods couldn't be inspected or tampered with, the consumer has the right to expect the maker's exercise of diligence to ensure that the product should not be detrimental to the consumer since the manufacturer has "of his own accord, placed himself into direct interaction with the

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<sup>5</sup> *Donoghue* (n 2)

consumer. This was a deviation from the rule that exempted Ms. Donoghue from having a duty of care, as the general norm did not apply in this instance.

After looking at past judgments, Lord Macmillan noted that the reasonable man criteria would be used to establish whether a duty existed and whether it was infringed. Lord Macmillan concluded that, by this criterion, by putting bottles somewhere snails could get to them, Stevenson breached his duty of care to Donoghue as a retail drinks and food producer, and Donoghue's damage was plausibly predictable. Lord Macmillan came to this conclusion after analyzing the evidence presented in the case.

### **SIGNIFICANCE**

The conclusion that was reached in the judgment: *Donoghue v Stevenson* has had a significant influence on the evolution of tort law. As a result of this case, the "principle of the duty of care" and the idea that people have a responsibility to use rational caution to prevent causing injury to others became well-established legal concepts. Specifically, the case established that a person must keep away from doing acts or omissions that may probably cause harm to other persons. This theory has since been applied in a wide variety of instances involving claims for negligence, such as those involving product liability, medical negligence, and environmental pollution, to name a few of the many types of cases that fall under this category. In addition, the *Donoghue v Stevenson* case had a substantial influence on the development of the law of contracts. The ruling made it abundantly obvious that the notion of privity of contract was not a barrier to a duty of care being owed and that a producer might have a duty of care to the final customer of its goods and produce.

This so-called neighbor principle, which was first articulated in the case *Donoghue v Stevenson*, has also played a significant function in the evolution of public law. The idea has been utilized in court cases that involved allegations of carelessness brought against public bodies. These instances include claims of negligence in the provision of public services as well as claims for breaches of the Human Rights Act of 1998.

## ANALYSIS AND CONCLUSION

*Donoghue v Stevenson* was a seminal decision that is credited with establishing the duty of care as a fundamental premise of tort law. The judgment has been widely cited in future instances involving claims of negligence and had a substantial influence on the progress of common law, as a result of its precedent-setting nature. The case is still considered an important and relevant ruling, and the concepts it established are still used by courts around the world today. The case serves as a useful reminder of the significance of the duty of care in tort law, as well as the need that both persons and companies must exercise reasonable caution to steer clear of actions or omissions that may probably cause injury to any third parties.

In a nutshell, the decision in *Donoghue v Stevenson* was a watershed moment in the history of the evolution of tort law<sup>6</sup>. It had far-reaching repercussions. Even now, over a century after the decision was handed down, its influence is still being felt, and it continues to serve as a timely reminder of the significance of the duty of care in tort law. The theory that was established in this case has been extensively accepted in various legal jurisdictions, and it has been influential in the development of product liability, medical negligence, and public law.

In addition, the case sheds light on the significance of the judicial system in the process of creating new legal precedents. The ruling in *Donoghue v Stevenson* marked a break from the preexisting legal norms of the time, and it indicated the readiness of the courts to modify the law in response to changing societal, economic, and technical circumstances. Considering this, the importance of the judicial branch in ensuring that the law continues to be pertinent and receptive to the requirements of society can no longer be overstated.

In conclusion, the *Donoghue v Stevenson* case acts as a warning tale for companies and individuals who are engaged in actions that have the inherent ability to cause harm to other people. The “duty of care” that was established in this case imposes a clear obligation on individuals and businesses to take proper caution to prevent acts or omissions that may probably cause harm to others, and failure in doing so can result in legal liability for the party or parties responsible for the harm. This highlights the significance of taking a preventative

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<sup>6</sup> Donoghue v Stevenson [1932] Doctrine of negligence (n 1)

approach to risk management and ensuring that proper precautions are taken to avoid causing harm to other people. The *Donoghue v Stevenson* case is one of the landmark judgments in the development of tort law, and its influence can still be seen in modern times. Its legacy serves as a reminder of the importance of the "duty of care" and signifies the obligation of individuals and businesses to uphold this.