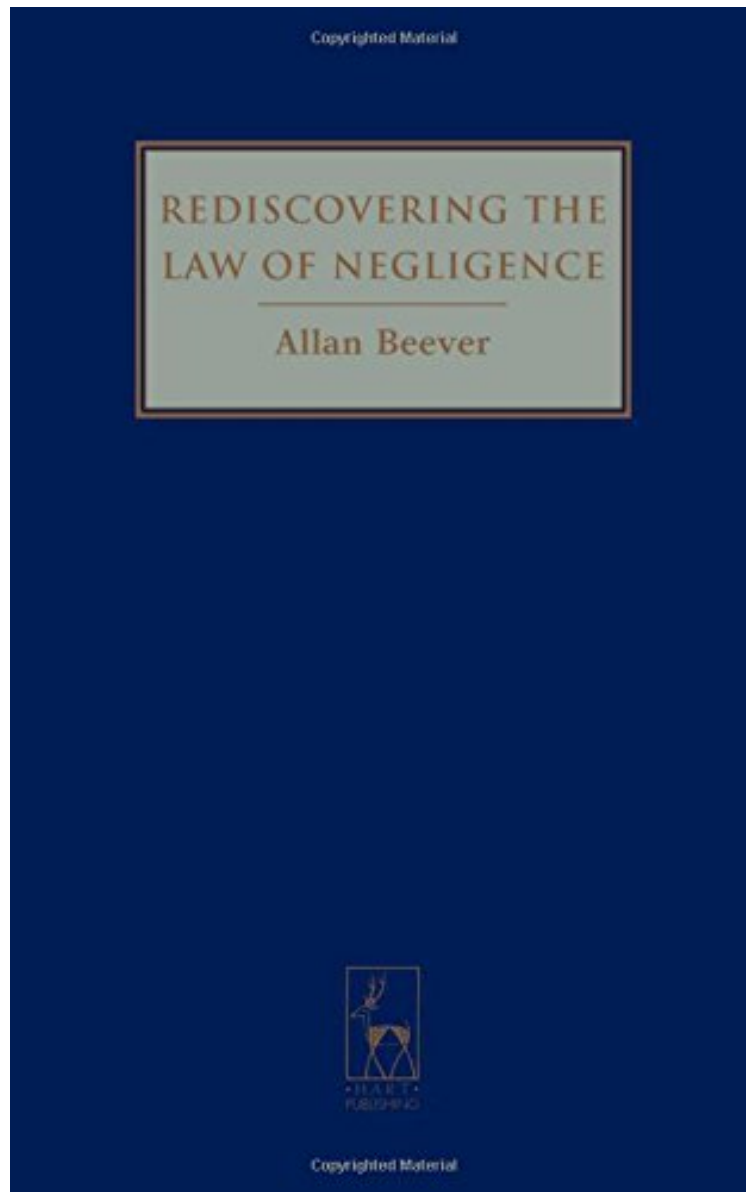


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## Rediscovering the Law of Negligence

*Allan Beever*

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**Allan Beever : Rediscovering the Law of Negligence** before purchasing it in order to gage whether or not it would be worth my time, and all praised Rediscovering the Law of Negligence:

This book offers a systematic and theoretical exploration of the law of negligence. It re-establishes the notion that

thinking about the law ought to and can proceed on the basis of principle. As such, it is opposed to the prevalent modern view that the various aspects of the law are, and must be, based on individual policy decisions, and that the task of the judge or commentator is to shape the law in terms of the relevant policies as s/he sees them. The book, then, is an attempt to re-establish the law of negligence as a body of law rather than as a branch of politics. Now in paperback, the book argues that the law of negligence is best understood in terms of a relatively small set of principles enunciated in a small number of leading cases. It further argues that these principles are themselves best seen in terms of an aspect of morality called corrective justice which, when applied to the most important aspects of the law of negligence reveals that the law - even as it now exists - possesses a far greater degree of conceptual unity than is commonly thought. Using this method, the author is able to examine familiar aspects of the law of negligence - such as the standard of care, the duty of care, remoteness, misfeasance, economic loss, negligent misrepresentation, the liability of public bodies, wrongful conception, nervous shock, the defense of contributory negligence, the defense of voluntary assumption of risk, causation, and issues concerning proof - to show that when the principles are applied and the idea of corrective justice is properly understood, then the law appears both systematic and conceptually satisfactory. The upshot is a rediscovery of the law of negligence.

This is an ambitious, well-researched and thought-provoking work, which will appeal to those interested in the academic debate as to the nature of the tort of negligence, reviving the argument that it could be unified under a set of key principles. Dr Paula Giliker *Professional Negligence* Vol. 24 No. 1, 2008 Students and practitioners will...find the book valuable...Rediscovering the Law of Negligence asks serious questions about liability, compensation, and justice which is unlikely to leave any reader unmoved. David Dickinson *New Zealand Lawyer Magazine* Issue 71, Aug 07 .a well-written, powerfully argued, provocative, alternative account of the tort of negligence. Dr Paula Giliker *Legal Studies* Vol 28, No 1 ...I was especially taken by Beever's discussion of the how the varying standards of care can be understood from a corrective justice perspective...the book...offers one of the most accessible introductions to corrective justice and interpretative legal theory that can be found in the relevant literature. Jason W Neyers *King's Law Journal* Vol 19:2, 2008 The book is true to its title; it takes the reader on a rediscovery of the core elements of negligence and invites the reader to view those elements again with the idea of corrective justice at the core of that re-viewing. Mamari Stephens *New Zealand Law Journal* September 2008 ...well-written and clearly the result of thorough research. It makes an exciting contribution to the academic discussion of the law of negligence and is sure to provoke further debate. Richard Williams *The Cambridge Law Journal* Vol 67/3, November 2008 Dr Beever has subjected negligence to rigorous analysis and has convincingly pursued a principled and structured interpretation of the tort. Simon Douglas *Law Quarterly* 2008 The book presents a broad, thoroughly researched and generally well argued thesis that will surely excite the interest of all those who have more than a passing interest in the role of policy in the law of negligence...It is well-written and clearly the result of thorough research. It makes an exciting contribution to the academic discussion of the law of negligence and is sure to provoke further debate. Richard Williams *The Cambridge Law Journal* Vol 67/3, November 2008 Rediscovering the Law of Negligence is not justly canvassed in a brief review. It is an elegant and persuasive account of a theoretical understanding of the entire scope of negligence law which, as such, goes further than past efforts to advance that understanding. The pay off from such an ambitious scope is an exploration of the interrelationship of negligence law's various components (Beever's ability to connect twentieth-century developments in remoteness with contemporary developments in the duty of care<sup>43</sup> is something of a tour de force)...It was a rare treat to read a book that every few pages had me not only thinking about why the author is right or wrong, but also about how I might revise my class lectures. In its scope and its nuanced account of the cases, Rediscovering the Law of Negligence illuminates negligence law's doctrinal components in surprising ways, shedding new light on old conundrums, and making observations that should inform discussions about negligence law that occur amongst ourselves and with our students. Russell Brown *Alberta Law* 46:1 (2008) In many ways the book is an exhilarating one, taking an approach to negligence which counters many increasingly gloomy academic accounts...It is difficult to do justice to this complex and compelling book in a short review...there is much here that is extremely valuable and thought-provoking. The emphasis on the principles of the law of negligence as being valid, having a basis and coherence in themselves, is extremely welcome and worth pursuing. I would hope that our judges read this book and think a great deal more carefully about the difference between principle and policy. Prue Vines *Torts Law Journal* Vol 16 (2008) Beever's account is presented with great conviction...it is certainly never dull, and there is something to stimulate, provoke, puzzle or infuriate on almost every page. It can be firmly recommended to those wanting a taste of an increasingly influential strand of Anglo-Commonwealth tort scholarship. Ken Oliphant *Yearbook of European Tort Law* 2007 It is well worth a read, for students especially, as an exposition of what the law could be like, and as a clear and critical perspective on what some see as the disintegration of the private law. Sean Kinsler *Auckland Law* Vol 14, 2008 About the Author Allan Beever is Reader in Law at the University of Durham.