

PROFESSIONALS' LIABILITY

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PROFESSIONAL'S AS AGENTS
State licensed
contract and tort
 reasonable expectations and
 justifiable reliance

fraud
 an expert's opinion can be a fact

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Professional's Liability for TORT

To whom is the duty of care is owed?
Is **privity** required?

Ultramares Rule
 party with primary benefit

Restatement Rule
 foreseen third party

Minority Rule
 reasonably foreseeable third party

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Professional's Liability for **CONTRACT**
What conduct is a breach of the duty of care?
published standard
voluntary professional association
State regulatory body
negligence *per se*

Professional's Liability for **Securities Law**

due diligence for an issue
BarChris Rule
must ask and must verify

10b insider trading
do not need privity
do need scienter

Communications
between an "agent" and a "principal",
at a minimum,
are confidential. Only some are privileged.

confidential v. privileged communications
PRIVILEGED: attorney - client
If **past action**, then absolute.
Court can **not** compel testimony.
If **future and criminal**, then attorney
may have prior obligation to disclose.

CONFIDENTIAL: accountant - client
Court may compel testimony.
Otherwise, disclosure is a
breach of a fiduciary duty.
