

Three Standards of Accountant Liability:

1. Ultramares doctrine: (New York and a minority of states)

Ultramares Corporation v. Touche Niven & Co. 255 N.Y. 170 (Court of Appeals of New York, 1931).

Judge Benjamin Cardozo:

Accountant must have privity of contract (i.e., the client) or have a “privity like relationship” with the auditors:

“privity like relationship” =

- 1.) financial reports used for known purpose
- 2.) for benefit of known party (i.e., specific name of the third-party)
- 3.) and account must manifest consent (i.e., agree)

2. Restatement of Torts (2d) § 552: (Pennsylvania, Texas, and a majority of states today)

§ 552 Information Negligently Supplied for the Guidance of Others

(1) One who, in the course of his business, profession or employment, or in any other transaction in which he has a pecuniary interest, supplies false information for the guidance of others in their business transactions, is subject to liability for pecuniary loss caused to them by their justifiable reliance upon the information, if he fails to exercise reasonable care or competence in obtaining or communicating the information.

(2) Except as stated in Subsection (3), the liability stated in Subsection (1) is limited to loss suffered:

(a) by the person or one of a limited group of persons for whose benefit and guidance he intends to supply the information or knows that the recipient intends to supply it; and

(b) through reliance upon it in a transaction that he intends the information to influence or knows that the recipient so intends or in a substantially similar transaction.

(3) The liability of one who is under a public duty to give the information extends to loss suffered by any of the class of persons for whose benefit the duty is created, in any of the transactions in which it is intended to protect them.

3. Reasonable Foreseeability: (California, New Jersey adopted then abandoned; now only Wisconsin and Mississippi)

accountant is liable to any plaintiff who had valid business purpose and it was reasonably foreseeable that they would rely on the accountant’s work-product (e.g., audited financials)