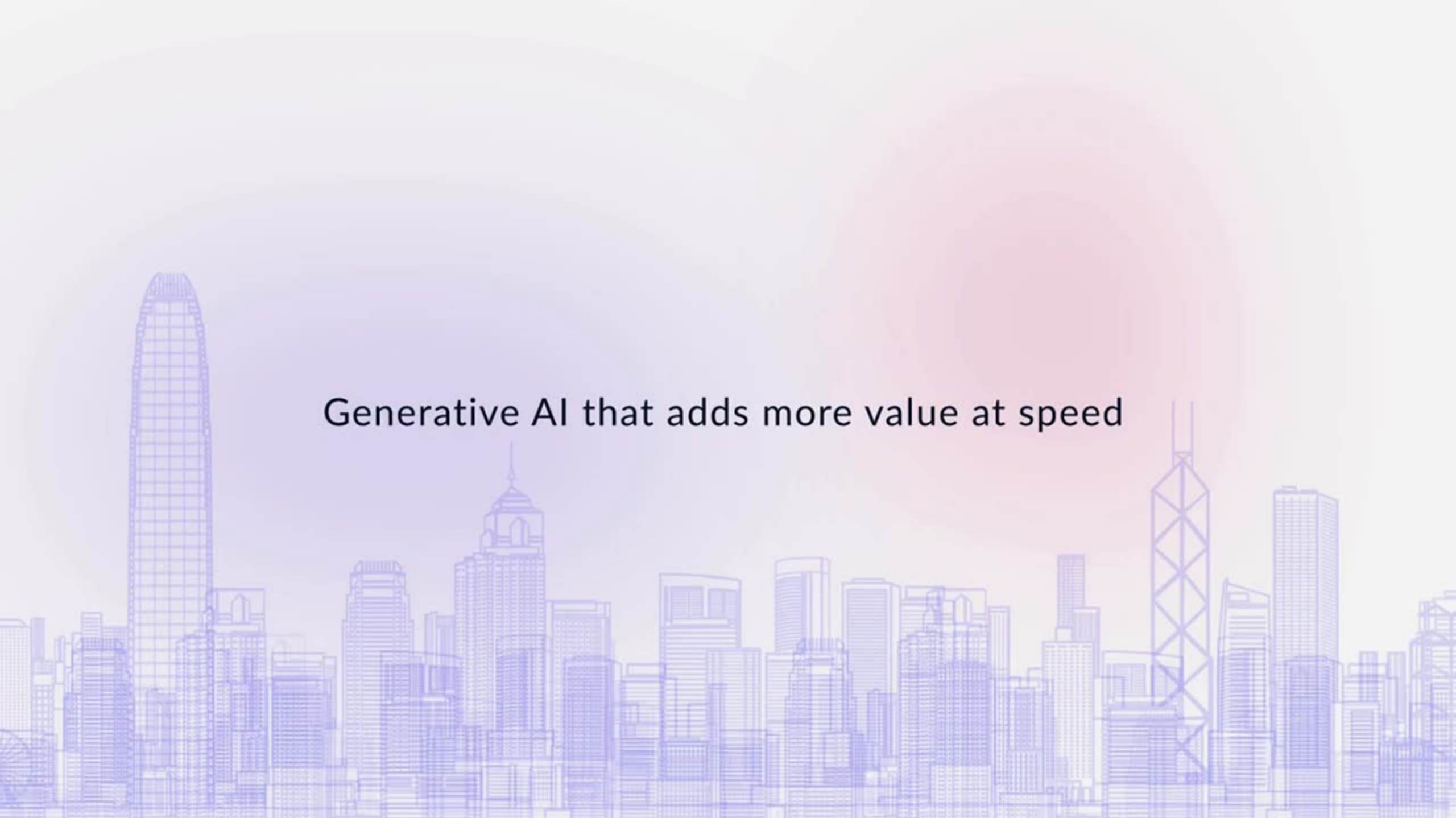




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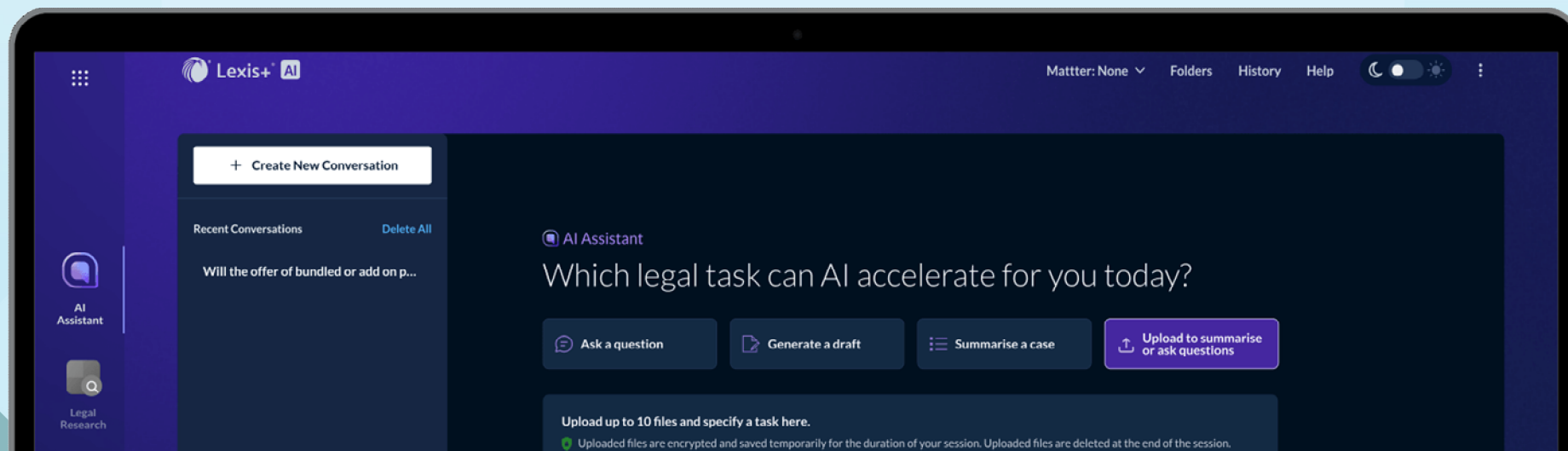
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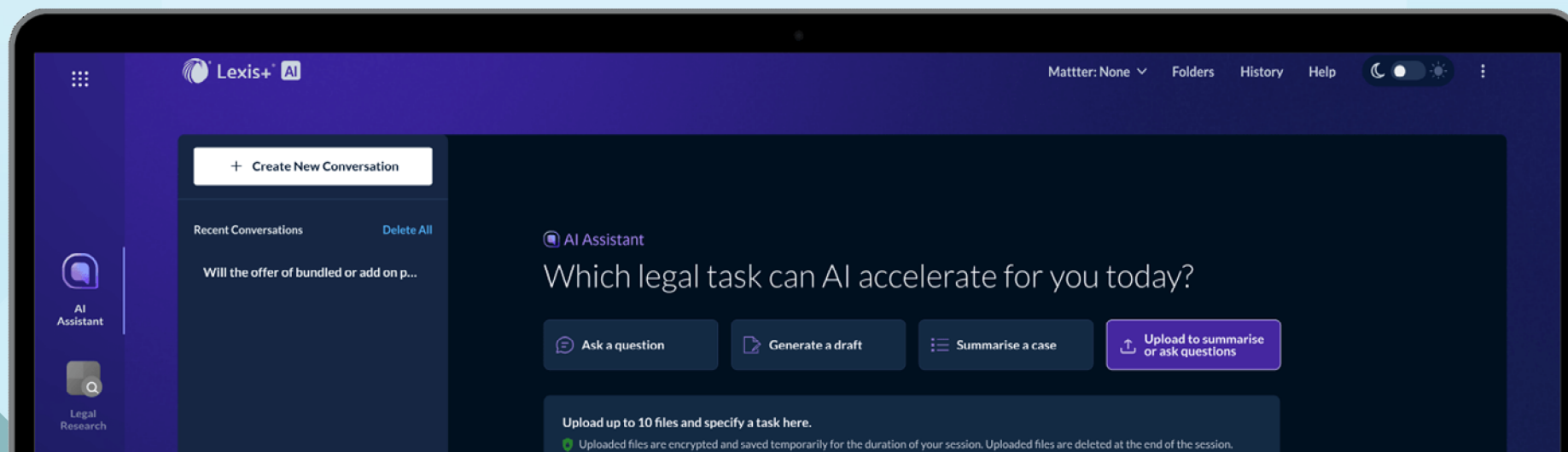


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1cv. Summarize Donoghue v Stevenson

Summarize Donoghue v Stevenson

What is the ratio of the case

The ratio decidendi of Donoghue v Stevenson is that a manufacturer owes a duty of care to the ultimate consumer of its product, even in the absence of a contractual relationship. This duty arises when the product is intended to reach the consumer without any possibility of intermediate inspection, and it is reasonably foreseeable that a lack of care in the preparation of the product could cause harm to the consumer. This principle established the foundation for modern negligence law, emphasising that negligence can give rise to a duty of care owed to third parties who may foreseeably be injured by negligent acts.

Please draft a legal research note

Introduction

This briefing note addresses the legal principles surrounding the duty of care in negligence, particularly in the context of product liability as established in the landmark case of Donoghue v Stevenson. The analysis will focus on the duty of care owed by manufacturers to consumers, the concepts of foreseeability and proximity, breach of duty, causation, and the scope of liability.

Statement of Facts

The query does not provide specific facts. Therefore, the analysis will be based on the general principles of negligence and product liability as established in Donoghue v Stevenson and subsequent case law.

Legal Standards/Rules

1. Duty of Care in Negligence: The general principles of negligence require the claimant to establish that the defendant owed them a duty to take reasonable care to avoid personal injury or property damage resulting from the defective product [Product liability—overview - Product liability—overview > Claims in negligence - Paragraph 4](#). The notion of a general duty to take care of others was first considered in *Donoghue v Stevenson* [Negligence—key elements to establish a negligence claim - Negligence—key elements to establish a negligence claim > Negligence—a duty of care is required - Paragraph 5](#). According to common law, producers owe a duty of care in delict to consumers regarding defective products [196. Background. - \(f\) Part 1 of the Consumer Protection Act 1987 > 196. Background. - Paragraph 1](#).
2. Foreseeability and Proximity: The duty of care does not arise unless the manufacturer has sold the article in such a form as to show that he intended it to reach the user in the form in which it left him without any reasonable likelihood of intermediate examination that would have revealed the danger [48. Intermediate examination or warning. - 48. Intermediate examination or warning. - Paragraph 1](#). Lord Atkin articulated the essence of the duty: a manufacturer owes a duty to the consumer to take reasonable care if the product is intended to reach the ultimate consumer without intermediate examination and with the knowledge that the absence of reasonable care will result in injury [196. Background. - \(f\) Part 1 of the Consumer Protection Act 1987 > 196. Background. - Paragraph 1](#).
3. Breach of Duty and Causation: The claimant must prove that the breach of the duty of care caused the claimant damage [Product liability—overview - Product liability—overview > Claims in negligence - Paragraph 4](#). The general rules on causation apply, meaning only losses that were a foreseeable consequence of the failure or breach of duty will be recoverable [Consumer protection for defective or dangerous products—legal bases - Consumer protection for defective or dangerous products—legal bases > Negligence - Paragraph 22](#).
4. Scope of Liability: While most product liability negligence claims are brought against manufacturers, other possible defendants include suppliers, retailers, and repairers [Product liability—overview - Product liability—overview > Claims in negligence - Paragraph 4](#). Manufacturers can rely on the state of the art defence, where the court considers whether the manufacturer acted as a reasonable manufacturer would have done [Consumer protection for defective or dangerous products—legal bases - Consumer protection for defective or dangerous products—legal bases > Negligence - Paragraph 22](#).

Analysis

The landmark case of *Donoghue v Stevenson* established the foundational principle that a manufacturer owes a duty of care to the ultimate consumer of its product, even in the absence of a contractual relationship. This duty arises when the product is intended to reach the consumer without any possibility of intermediate inspection, and it is reasonably foreseeable that a lack of care in the preparation of the product could cause harm to the consumer [Negligence—key elements to establish a negligence claim - Negligence—key elements to establish a negligence claim > Negligence—a duty of care is required - Paragraph 5. 196. Background. - \(f\) Part 1 of the Consumer Protection Act 1987 > 196. Background. - Paragraph 1.](#)

The duty of care is contingent upon the foreseeability of harm and the proximity between the manufacturer and the consumer. The manufacturer must have intended the product to reach the consumer in the form it left the factory, without any reasonable likelihood of intermediate examination that would reveal the danger [48. Intermediate examination or warning. - 48. Intermediate examination or warning. - Paragraph 1.](#) This principle ensures that manufacturers are held accountable for the safety of their products and the well-being of consumers.

To establish a claim in negligence, the claimant must demonstrate that the breach of the duty of care caused them damage. The damage must be a foreseeable consequence of the breach [Product liability—overview - Product liability—overview > Claims in negligence - Paragraph 4. Consumer protection for defective or dangerous products—legal bases - Consumer protection for defective or dangerous products—legal bases > Negligence - Paragraph 22.](#) This requirement ensures that manufacturers are only held liable for harm that could reasonably have been anticipated.

The scope of liability extends beyond manufacturers to include suppliers, retailers, and repairers, who may also owe a duty of care to consumers [Product liability—overview - Product liability—overview > Claims in negligence - Paragraph 4.](#) Manufacturers can defend themselves by demonstrating that they acted as a reasonable manufacturer would have done, considering the state of the art at the time [Consumer protection for defective or dangerous products—legal bases - Consumer protection for defective or dangerous products—legal bases > Negligence - Paragraph 22.](#)

Conclusion

In summary, the principles established in *Donoghue v Stevenson* form the cornerstone of modern negligence law, particularly in the context of product liability. Manufacturers owe a duty of care to consumers to ensure their products are safe and free from defects. This duty arises from the foreseeability of harm and the proximity between the manufacturer and the consumer. Claimants must prove that the breach of this duty caused them damage, and the scope of liability can extend to other parties involved in the distribution and sale of the product. These principles ensure that consumers are protected and that manufacturers are held accountable for the safety of their products.

I'm representing a 22-year-old first-time offender who has pleaded not guilty to AOABH. The victim suffered bruising and a broken nose requiring hospital treatment, but no permanent injury. The offence occurred after significant provocation at a pub. Write a line of questions for prosecution examination-in-chief of the victim.

Introduction

This briefing note provides a line of questions for the prosecution's examination-in-chief of the victim in a case involving a 22-year-old first-time offender charged with Assault Occasioning Actual Bodily Harm (AOABH). The victim suffered bruising and a broken nose requiring hospital treatment, but no permanent injury. The offence occurred after significant provocation at a pub. The questions are designed to elicit the necessary facts while adhering to the rules governing examination-in-chief.

Statement of Facts

- The defendant is a 22-year-old first-time offender.
- The defendant has pleaded not guilty to AOABH.
- The victim suffered bruising and a broken nose requiring hospital treatment.
- The offence occurred after significant provocation at a pub.
- There was no permanent injury to the victim.

Legal Standards/Rules

- Examination-in-chief should avoid leading questions on disputed matters. Leading questions are permissible on undisputed matters to make the questioning process more efficient [Witness evidence during a criminal trial - Witness evidence during a criminal trial > Examination-in-chief - Paragraph 8, Stages of a summary trial - Stages of a summary trial > Prosecution case > Sequence of questioning - Paragraph 16](#).
- The prosecution must prove beyond reasonable doubt all elements of AOABH, including that the force used was unlawful [Assault occasioning actual bodily harm - Assault occasioning actual bodily harm > Defences - Paragraph 8](#).
- Self-induced intoxication cannot negate the mental element of AOABH, as it is a crime of specific intent [Assault occasioning actual bodily harm - Assault occasioning actual bodily harm > Unavailable defences to ABH charges > Self-induced intoxication - Paragraph 13](#).
- Mitigating factors such as provocation and lack of premeditation may be relevant.

Analysis

The questions for the examination-in-chief should aim to establish the facts of the incident, the nature and extent of the victim's injuries, and the context in which the offence occurred. The questions should be open-ended to avoid leading the witness and to ensure that the victim's testimony is clear and comprehensive.

Conclusion

The following line of questions is designed to adhere to the legal standards and rules governing examination-in-chief while effectively eliciting the necessary facts from the victim.

Line of Questions for Examination-in-Chief

1. Can you please state your name for the record?
2. Where were you on the night of. [date of the incident]?
3. Can you describe the events that led up to the incident at the pub?
4. What was the nature of the provocation you experienced?
5. Can you describe the actions of the defendant during the incident?
6. What happened immediately after the defendant's actions?
7. Can you describe the injuries you sustained as a result of the incident?
8. Did you require any medical treatment for your injuries?
9. How long did it take for your injuries to heal?
10. Were there any long-term effects from your injuries?
11. Were there any witnesses to the incident? If so, who were they?
12. How did the incident affect you emotionally and physically?

These questions are designed to provide a clear and detailed account of the incident, the victim's injuries, and the context in which the offence occurred, while adhering to the rules governing examination-in-chief.

Please elaborate with more questions

Line of Questions for Examination-in-Chief (Continued)

13. Can you describe the atmosphere in the pub before the incident occurred?
14. Were you with anyone at the pub? If so, who were they?
15. Did you have any interaction with the defendant prior to the incident?
16. Can you describe the defendant's demeanour before the incident?
17. Did you or anyone else attempt to de-escalate the situation before the incident occurred?
18. How did the defendant respond to any attempts to de-escalate the situation?
19. Were there any security personnel or staff present at the pub during the incident?
20. Did you report the incident to the pub staff or security personnel? If so, what was their response?
21. Did you contact the police immediately after the incident? If not, when did you contact them?
22. Can you describe the process of reporting the incident to the police?
23. Did you provide a statement to the police? If so, can you summarise what you told them?
24. Have you had any contact with the defendant since the incident? If so, can you describe the nature of that contact?
25. Have you experienced any changes in your daily life as a result of the incident?
26. Have you sought any counselling or psychological support following the incident?
27. How has the incident impacted your relationships with friends and family?
28. Have you had any financial expenses as a result of the incident, such as medical bills or lost wages?
29. Is there anything else you would like to add about the incident that we haven't covered?

Jurisdiction: England

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