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Legal Implications of Forecasting

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Abstract: Persons harmed by the weather have attempted to hold governmental forecasters, private forecasters, and businesses liable under negligence doctrines for tort law for injuries resulting from inaccurate forecasts and failure to warn but the courts have held that there is no liability. The cases have focused upon lack of duty, immunity from suit, and lack of certainty in weather predictions.

While forecasters will likely continue to be free from liability because of sovereign immunity or a lack of recognized duty to a particular person, private forecasters may find themselves liable for inaccurate information presented as forecasts as technology allows for more accurate assessments and faster reporting of weather conditions. If a forecasting agency or weather station provides assurances of accuracy or assumes a duty to warn, might the nature of the relationship between the forecaster and the person heeding the forecast change in the eyes of the law? In at least one recent case, a company was held liable under contract law for failure to provide forecasts and warnings as specified in its agreement with a customer. Could this type of duty be recognized in other circumstances to create a liability for inaccurate forecasts or failure to warn?

This paper will briefly discuss the current state of the law related to weather forecasts and warning systems, discussing the relevant cases and legal doctrine. The discussion will then turn to the ways in which the law has tried to address technological progress such

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as Internet advancements and the way in which new technologies might result in liability for forecasting and warning systems.

Forecasting agencies and companies and other types of weather services are generally immune from suit for harm resulting from faulty forecasts or failure to warn. Governmental agencies are usually protected from liability under the doctrine of sovereign immunity. Non-governmental entities such as television weather stations are able to rely on the fact that they do not have a special relationship with and do not owe a duty of care to any particular member of the viewing audience.

However, not all cases are decided in favor of the party sued for failure to warn or for providing faulty weather information. In a case from the 1970s, air traffic controllers were held to have a duty to provide accurate and complete weather information to pilots. The duty arose from the pilots' reliance on the air traffic controllers to provide information that the pilots can not get for themselves combined with the fact that the pilots must follow the air traffic controllers' directions. This reliance by the pilots placed a greater burden on the government to provide accurate and thorough weather advisories. *Gill v. United States*, 429