

Proximate Cause

Benn v. Thomas

“The Time-Delayed Heart Attack”

Steinhauser v. Hertz Corp.

“Sudden Schizophrenia”

Gibson v. Garcia

“The Rotten Telephone Pole that Fell on the Person”

Intervening cause will cut off proximate cause

“a cause which interrupts the natural sequence of events, turns aside their cause, prevents the natural and probable results of the original act or omission, and produces a different result, that could not have been reasonably foreseen.”

- Prosser & Keaton, Law of Torts

Berry v. Borough of Sugar Notch

“The Rotten Tree that Fell on the Speeding Car”

Palsgraf v. Long Island Railroad Co.

“Fireworks on the Train Platform”

How would you rule in *Palsgraf*?

Majority opinion (Cardozo)

and

Dissenting opinion (Andrews)

“What we do mean by the word ‘proximate’ is, that because of convenience, of public policy, of a rough sense of justice, the law arbitrarily declines to trace a series of events beyond a certain point. This is not logic. It is practical politics.”

- Andrews dissent in *Palsgraf*

That's all folks!

Vicarious Liability

Miller v. Reiman-Wuerth Co.

“The Bank Errand”

Christensen v. Swenson

“The Lunch Break”

Three criteria

- 1) Employee's conduct must be of the general kind the employee is hired to perform.
- 2) Employee's conduct must occur substantially within the hours and ordinary spatial boundaries of the employment.
- 3) Employee's conduct must be motivated, at least in part, by the purpose of serving the employer's interest.

Kuehn v. Inter-city Freight

“Road Rage”

Sage Club v. Hunt

“The Violent Bartender”

Exercise: Causation and Vicarious Liability

Cooper seeks to dismiss the case against her for two independent reasons:

1. Cooper did not breach a duty of care to Boyd.
2. Cooper did not proximately cause Boyd's injuries.

Greene seeks to dismiss the case against her for two independent reasons:

1. Cooper putting out the trashcans was an intervening cause of Boyd's injuries.
2. Even if Cooper's actions were not an intervening cause, Greene still did not proximately cause Boyd's injuries.

ACME seeks to dismiss the negligence case against it for two reasons:

1. ACME is not liable for Greene's tortious acts because she was acting outside the scope of her employment.
2. ACME is not liable because asking Greene to pick up a birthday cake was not a factual cause of Boyd's injuries.

Factual Cause

Stubbs v. City of Rochester: “Sewage in the Drinking Water”

Zuchowicz v. United States: “Prescribed Drug Overdose”

Anderson v. Minneapolis, St. Paul & Sault Ste. Marie Railway Co.:
“Multiple Fires Whodunnit”

Summers v. Tice: “Hunting Party Whodunnit”

Garcia v. Joseph Vince Co.: “Fencing Sabre Whodunnit”

Sindell v. Abbott Laboratories: “Toxic Harms”

Four typical scenarios in which factual cause may be contested

1. Toxic exposure
2. No idea what happened
3. Know what happened, but don't know that it wouldn't have happened if defendant had behaved reasonably
4. Know what happened, but don't know who to blame

Proximate Cause

In re Polemis: “The Plank that Made a Ship Explode”

Wagner v. International Railway Co.: “The Injured Rescuer”

Benn v. Thomas: “The Time-Delayed Heart Attack”

Steinhauser v. Hertz Corp.: “Sudden Schizophrenia”

Gibson v. Garcia: “The Rotten Telephone Pole that Fell on the Car”

Berry v. Borough of Sugar Notch: “The Rotten Tree that Fell on the Speeding Car”

Palsgraf v. Long Island Railway Co.: “Fireworks on the Train Platform”

Vicarious Liability

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Three criteria for scope of employment

- 1) Employee's conduct must be of the general kind the employee is hired to perform.
- 2) Employee's conduct must occur substantially within the hours and ordinary spatial boundaries of the employment.
- 3) Employee's conduct must be motivated, at least in part, by the purpose of serving the employer's interest.