

Roles of Judge & Jury

Reading Assignments 02

Negligence as a Cause of Action

Plaintiff must prove four elements:

1. ??????????

2. ??????????

3. ??????????

4. ??????????

Negligence as a Cause of Action

Plaintiff must prove four elements:

1. Duty
2. Breach
3. Causation
4. Harm

What proving these four elements looks like:

1. Duty - The defendant had a duty to the plaintiff.
2. Breach - The defendant breached that duty.
3. Causation - The defendant's negligence caused this harm.
4. Harm - The harm is legally cognizable.

Reasonable care

Proving duty and breach when reasonable care is the duty:

1. Duty - The defendant had a duty to the plaintiff to exercise reasonable care when [insert defendant's action].
2. Breach - The defendant breached that duty.
Reasonable care under the circumstances was [X]. Defendant did [Y].

Ways to determine reasonable care under the circumstances include:

Foreseeability

The Reasonable Person



The Reasonable Person Standard

Objective standard

Exceptions to objective standard:

- Physical disability
- Children
- Expertise

Not exceptions to objective standard

- Mental disability
- Children engaged in adult activity
- Old age & infirmity

Baltimore & Ohio Railroad Co. v. Goodman

and

Pokora v. Wabash Railway Co.

and

Akins v. Glen Falls

