

# No Duty to Rescue or Protect

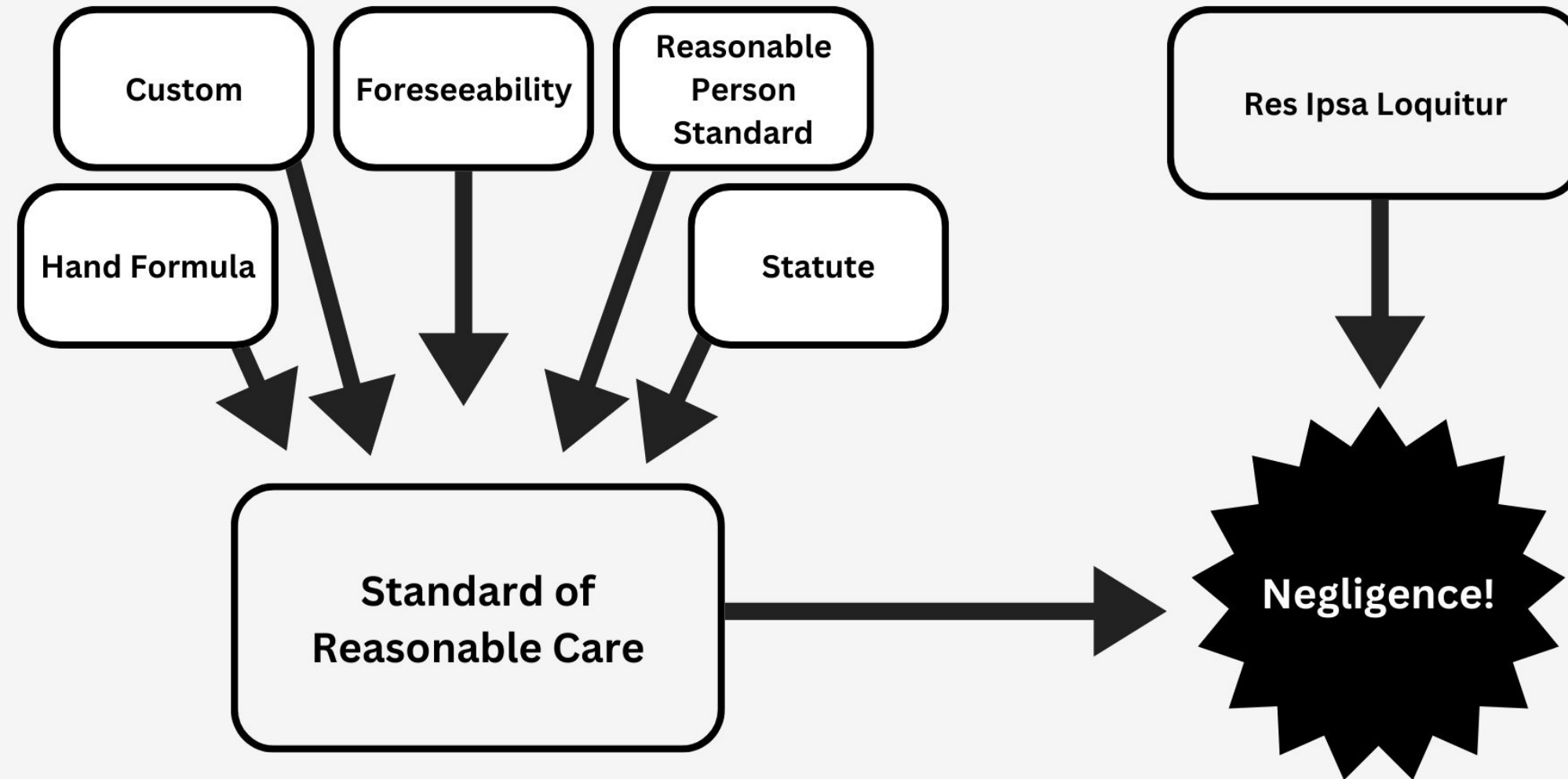
# In-Class Exercise for Res Ipsa Loquitur

You are deciding a case as an appellate court judge.

Organize your notes according to the CREAC method:

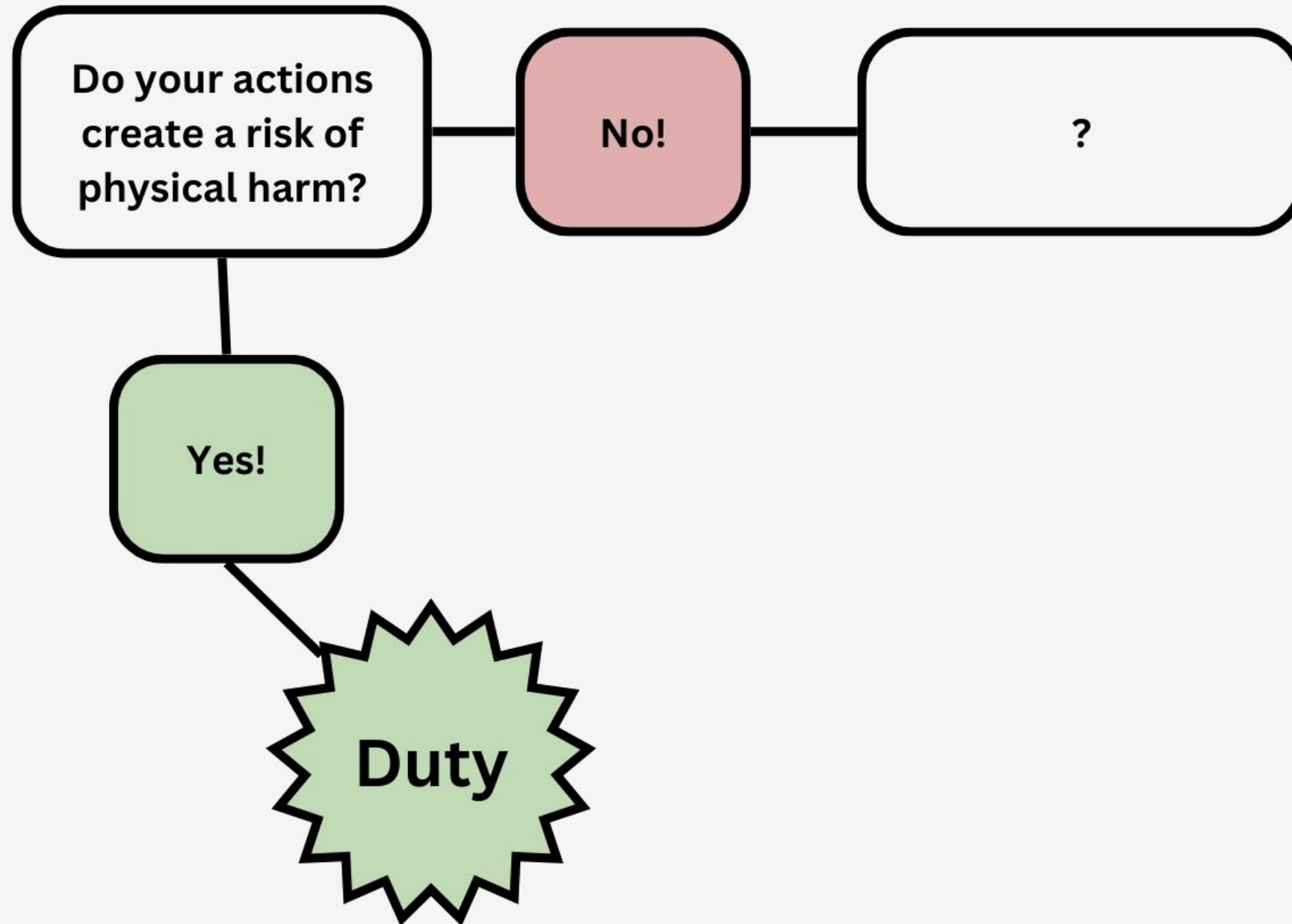
- Conclusion
- Rule
- Explanation
- Application
- Conclusion

# Proving Negligence



# Existence of a Legal Duty

# Do you have a legal duty?



# No Duty to Rescue or Protect



**Utilitarian**

**In Between?**

**Libertarian**

# Harper v. Herman

“The Boat Owner in Shallow Water”

## **Sidenote: Don't write like this**

On Sunday, August 9, 1986, Jeffrey Harper (“Harper”) was one of four guests on Theodor Herman’s (“Herman”) 26-foot boat...

**Because good writers don't write  
like that.**

Call me Ishmael (“Ishmael”).

It is a truth universally acknowledged, that a single man (“man”) in possession of a good fortune (“fortune”), must be in want of a wife (“wife”).

As Gregor Samsa (“Samsa”) awoke ~~one morning~~ on Sunday, August 9, 1926 from uneasy dreams he found himself transformed in his bed into a gigantic insect (“cockroach”).

**But why don't good writers write like that?**

**Because they treat  
the reader like a  
big, golden baby.**



# Farwell v. Keaton

“The Fatal Pickup Attempt”

# Union Pacific Railway v. Cappier

“The Railroad that Ran Over a Man and Let Him Die”

# The modern rule for non-negligent creation of injury

**Maldonado v. Southern Pacific Transp. Co. (Ariz. App. 1981)**

Issue: Whether the railroad owed the plaintiff a duty to render aid after he was seriously injured by the train.

Court adopts rule from Restatement (Second) of Torts :

If the actor knows or has reason to know that by his conduct, whether tortious or innocent, he has caused such bodily harm to another as to make him helpless and in danger of further harm, the actor is under a duty to exercise reasonable care to prevent such further harm.

# Do you have a legal duty?

