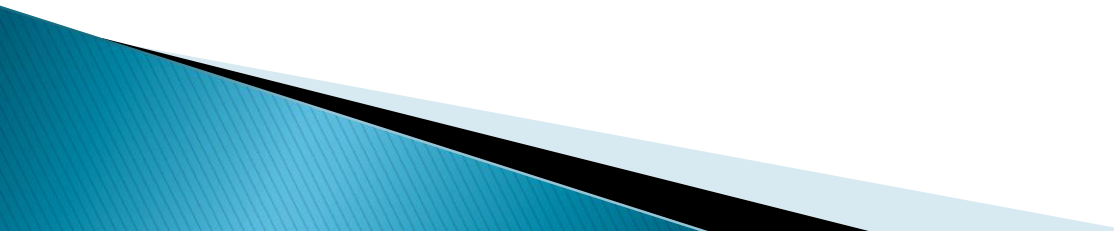


Negligence Liability of Engineers

A Dual System

- ▶ The Federal Government
 - Areas of federal law under U.S. Constitution; enumerated powers
 - Three branches of federal government
 - ▶ The State Governments
 - Areas of state law: broad general powers, except where excluded by federal law
 - Three branches of state government
 - Local governments: counties and municipalities
- 

Where does the law come from?

- ▶ Legislative branches

- Enact statutes
- Example: Patent Act

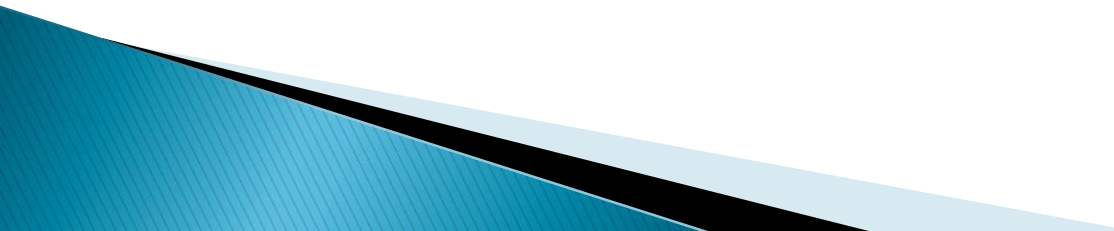
- ▶ Executive branches

- Administrative agencies adopt regulations
- Example: EPA regulations re engineers on waste water treatment plants financed w/ federal money

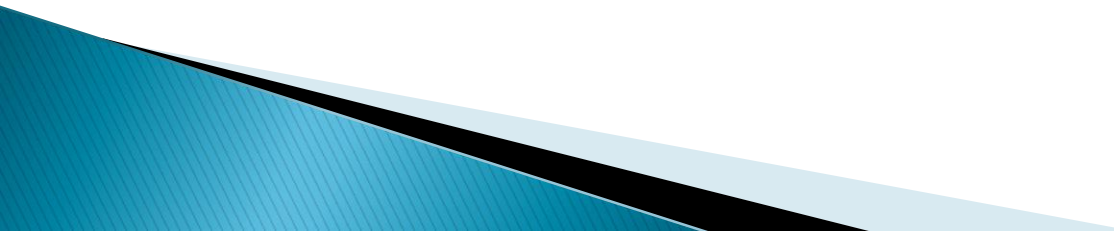
- ▶ Judicial branches

- Decide cases
- Example: *Smith v. Jones* held that engineers are liable to plaintiffs injured when building collapsed

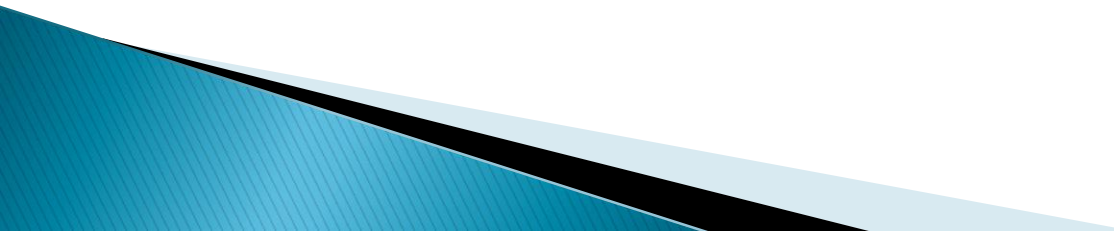
The Common Law

- ▶ Legal system developed in England since the Middle Ages
 - ▶ Judges apply prior, judicial decisions (precedents) to new cases
 - ▶ Adopted in the United States following the Revolutionary War
 - ▶ Continues throughout the United States on a state-by-state basis
- 

Basic Principles

- ▶ Fundamental notion: Similar cases should be decided similarly; essential to the rule of law
 - ▶ Doctrine of *stare decisis*: Courts are bound by precedents and should not disturb settled law
- 

Policies of Tort Law

- ▶ Compensate for injuries
 - ▶ Deter misconduct
 - ▶ Encourage safety precautions
 - ▶ Keep the peace
 - ▶ Do justice
- 

Theories of Tort Liability

- ▶ Intentional torts

Defendant intentionally injured plaintiff

- ▶ Negligence

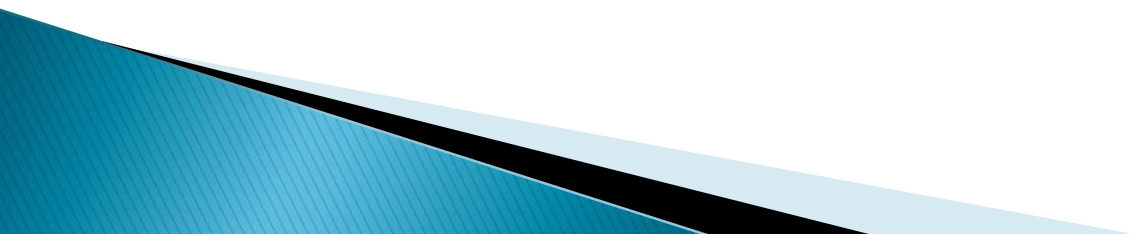
Defendant's conduct fell below a standard of reasonable care

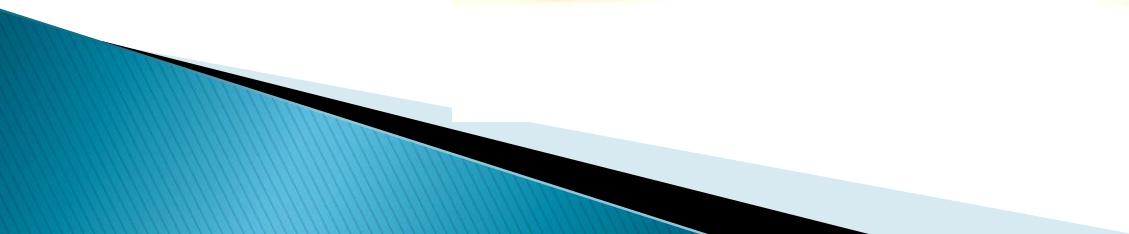
- ▶ Strict liability

Defendant engaged in an extremely dangerous activity











Negligence Action: Elements

- ▶ **Duty:**
Δ's duty to use reasonable care under the circumstances
- ▶ **Breach:**
Δ's failure to comply with that duty
- ▶ **Cause in Fact:**
Causal connection b/w Δ's negligence and Π's injury
- ▶ **Proximate Cause:**
Policies for imposing or denying liability
- ▶ **Damages:**
Monetary compensation: compensatory; punitive

Moransais Case

1. What is the engineer's duty of care?

An engineer has a duty to perform the requested services in accordance with the standards of care used by similar professionals under similar circumstances.

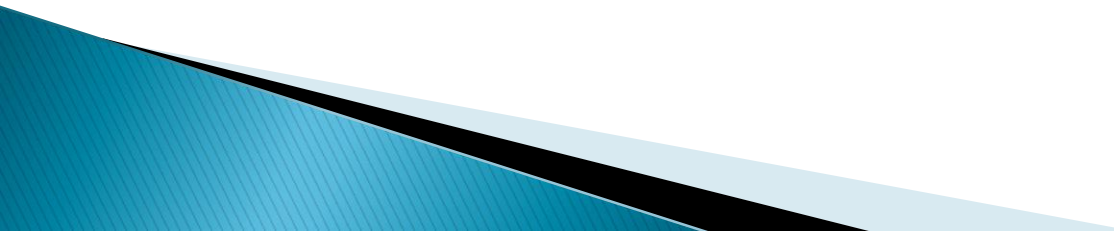
2. Are engineers who are employees of a corporation which contracted to provide services personally liable to the client for negligence?

Yes. Professionals are personally liable for negligence even though they are employees of corporations.



3. Do statutes allowing professionals to form corporations (to enable them to provide employee pensions) relieve them of their common law duties under negligence law?

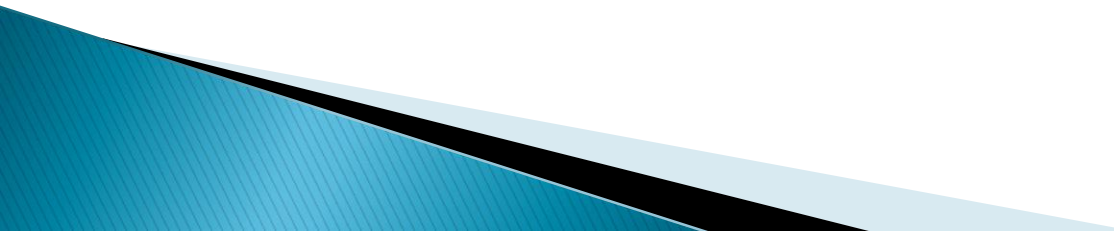
No. Statutes allowing professionals to operate as corporations do not relieve them of their common law tort duties as professionals.



Seattle Western Case

1. Are engineers liable for an honest error in judgment where they exercise reasonable care and skill under the standards of their profession?

No. Engineers must exercise reasonable care and skill necessary to proper professional practice, but are not liable for every bad result.



- ▶ 2. Do engineers owe a common law duty of care to third parties beyond the scope of their contract with the owner?

Yes. Engineers who assume additional duties by affirmative conduct have a duty of care in performing those duties.

