

Negligence

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

Negligence as a Concept

Relates to the elements of duty and breach

The “fault” principle

Defined as a failure to exercise “reasonable care”

Exercise: Opposite holdings

Develop arguments for the opposite holdings from the holdings you just read in *Adams v. Bullock* and *Braun v. Buffalo*.

For *Adams*, develop the strongest argument that the jury verdict should be upheld because the defendant did not exercise reasonable care.

For *Braun*, develop the strongest argument that the defendant was not negligent as a matter of law because the defendant did exercise reasonable care.

The Reasonable Person Standard

An objective standard* designed to clarify what reasonable care requires

*with some exceptions

Justifications for an objective standard

1. Administrative feasibility
2. Consistent enforcement of community norms
3. Equality & fairness

Exceptions to objective standard

1. Physical disability
2. Children
3. Expertise

Not exceptions to objective standard

1. Mental disability
2. Children engaged in adult activity
3. Old age & infirmity

Bethel v. New York City Transit Authority

The standard of *the highest degree of care*

versus

the standard of *reasonable care*

Readings

Sex and Gender: The Reasonable Woman?

The Right to Live in the World: The Disabled in the Law of Torts