

# Welcome to Negligence!

**But first...**

**Outline for damages**

# 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”

# California Negligence Jury Instruction:

Negligence is the doing of something which a reasonably prudent person would not do, or the failure to do something which a reasonably prudent person would do, under circumstances similar to those shown by the evidence.

It is the failure to use ordinary or reasonable care.

Ordinary or reasonable care is that care which persons of ordinary prudence would use in order to avoid injury to themselves or others under circumstances similar to those shown by the evidence.

- 1. What is reasonable care?**
- 2. Who is this reasonable person?**

# Adams v. Bullock

1. Procedural posture
2. Legal question(s)
3. Relevant facts
4. Holding
5. Reasoning(s) behind the holding

# Braun v. Buffalo Gen. El. Co.

1. Procedural posture
2. Legal question(s)
3. Relevant facts
4. Holding
5. Reasoning(s) behind the holding



# 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.