

# Customs & Statutes

## **Ways to determine reasonable care under the circumstances include:**

- Foreseeability
- The Reasonable Person
- Custom
- Statute

## **Special Considerations**

- Judge and jury relationship

# Proving Negligence

To establish that conduct fell below standard of reasonable care, plaintiff needs to prove:

1. What defendant did or did not do.
2. What defendant should have done.

# How to use customs and statutes

## Sword for proving negligence

Prove two things:

- Custom or statute = reasonable care
  - Defendant failed to comply with custom or statute
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## Shield for disproving negligence

Prove two things:

- Custom or statute = reasonable care
- Defendant complied with custom or statute

# Negligence per se

- Actor violates a statute that is designed to protect against this type of accident and harm

AND

- the accident victim is within the class of persons the statute is designed to protect.

**The T.J. Hooper**

**Martin v. Herzog**

**Tedla v. Ellman**

# Rushink v. Gerstheimer

“Leaving Keys in the Ignition”

In recommending the enactment of section 1210, the Joint Legislative Committee on Motor Vehicle Problems stated that the proposed law was:

“designed to obviate the risk of a vehicle moving from the place where it was left parked and possibly injuring the person and property of others as well as itself being damaged. It serves to lessen the likelihood of theft”



# Trimarco v. Klein

“Broken Shower Door”

# Robinson v. District of Columbia

“Jaywalking”

# Exercise: *May v. Wrecking Crew Co.*

You are a Supreme Court Justice in the State of Loyola Supreme Court, hearing a case on appeal. Your small group represents the entire Loyola Supreme Court.

The only issue on appeal to this court is whether the trial court correctly found that one of the defendants, Wrecking Crew Co., was negligent as matter of law for violating a statute.

How do you rule? You are welcome to have majority opinions, concurring opinons, and dissenting opinions.