

# Res Ipsa Loquitur

**Office hours this week will be on Friday at  
12pm.**

# Economic theory of negligence

## Hand Formula

$$B = ???$$

$$P = ???$$

$$L = ???$$

# Economic theory of negligence

## Hand Formula

B = Burden of precautionary measures

P = Probability of loss/harm

L = Magnitude of loss/harm

$B < PL$  = Negligent

$B > PL$  = NOT negligent

# Economic theory of negligence

## Hand Formula

B = Burden of precautionary measures

P = Probability of loss/harm

L = Magnitude of loss/harm

IF  $B < PL$

AND defendant did not take on B

THEN defendant was negligent

IF  $B > PL$

AND defendant did not take on B

THEN defendant was NOT negligent

# Structuring Arguments

# Syllogism for proving duty and breach

D was legally obligated to do X.

D failed to do X.

Therefore, D breached their legal duty.

# Syllogism for proving duty and breach

D had a duty (to the plaintiff) to exercise reasonable care under the circumstances.

Reasonable care under the circumstances was X, because of

- foreseeability,
- reasonable person standard,
- custom,
- statute,
- or hand formula.

D failed to do X, therefore D acted negligently / breached their legal duty to plaintiff.



# Byrne v. Boadle

# Res Ipsa Loquitur

Two requirements:

1. Harm results from the kind of situation in which negligence can be inferred
2. Defendant was responsible for the instrument of harm

# Larson v. St. Francis

# Connolly v. Nicollet Hotel

# Why *Allow Res Ipsa Loquitur*?

1. Probabilistic rationale
2. *Asymmetry* and fairness justification