

II. Negligence

A. Prima-Facie Case

1. Duty

2. Breach

3. Legally Cognizable Harm

- a. Actual Injury
- b. Other Possibilities [*see infra*]

4. Cause in Fact

- a. The Tests of Cause in Fact
 - i. But-For Test
 - a. Generally [*Salinetto*]
 - b. Multi, Interdependent But-For Causes [*Note*]
 - ii. Substantial Factor Test—Multi, Independently Sufficient Causes [*Anderson*]
- b. Extending a Finding of Cause in Fact to Others
 - i. Conspiracy / Concert of Action [*Note*]
 - ii. *Respondeat Superior* [*Note*]
- c. Proof of Causation
 - i. Preponderance of the Evidence
 - ii. Inferring Causation
 - a. *Res Ipsa Loquitur* [*Note*]
 - iii. Alternative Causes and the Shifted Burden of Proof [*Summers*]
- d. Reconceptualizing the Harm
 - i. Loss of an Already Endangered Life [*Dillon v. Twin State*]
 - ii. Loss of Chance for a Better Outcome [*Lord; Alex.*]
 - iii. Increased Risk of Future Harm [*Alex.; Dillon v. Evanston*]
- e. Apportionment of Fault [*not causation*]
 - i. Joint and Several Liability [*Landers*]
 - ii. Proportionate Share Liability [*Notes*]