

**Judges & Juries**

**Customs**

# Reasonable care

The principle behind liability/fault

Tools for defining reasonable care include:

1. Foreseeability
2. Hand Formula ( $B < P * L$ )
3. The Reasonable Person

# BPL Example

Precaution	B	P * L	Total Cost
None	\$0 (or $\infty$ )	\$100k	\$100k
Solar Panels	\$200k	\$0k	\$200k
Spark Arresters	\$30k	\$50k	\$80k

Scenario 1: No precautions available to defendant

Scenario 2: Only solar panels available

Scenario 3: Both solar panels and spark arresters available

# The Reasonable Person Standard

Objective standard

## Justifications

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

## Exceptions

1. Physical disability
2. Children
3. Expertise

# The Role of Judge & Jury

Baltimore & Ohio Railroad Co. v. Goodman

vs.

Pokora v. Wabash Railway Co.

# Custom

- Sword (for plaintiff)
- Shield (for defendant)

# Defining terms

Negligence per se

Prima facie case of negligence

# The Concept of Negligence

- Reasonable care

# The Tort of Negligence

- Duty
- Breach
- Causation
- Harm



# Trimarco v. Klein