

Res Ipsa Loquitur



In-Class Exercise: Moore v. Myers

Confer with your panel.

Decide on the opinions your court will issue and the reasoning you will adopt in those opinions.

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

McDougal v. Perry

Differences Across Jurisdictions

Res ipsa loquitur can either be:

- an inference (e.g., New York), or
- a presumption (e.g., California).

Why *Allow Res Ipsa Loquitur*?

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

Ybarra v. Spangard

Short In-Class Exercise

Good Luck with Midterms!