

Factual Causation:

Multiple Defendants

Causation

Two parts:

1. _____

2. _____

Two different tests for factual causation

1. _____

2. _____

Causation

Two parts:

1. Factual cause
2. Proximate cause

Two different tests for factual causation

1. “But for”
2. Substantial factor

Stubbs v. City of Rochester

Zuchowicz v. United States

Four typical scenarios in which factual cause may be contested

1. Toxic exposure
2. No idea what happened
3. Know what happened, but don't know that it wouldn't have happened if defendant had behaved reasonably
4. Know what happened, but don't know who to blame

Joint and Several Liability

Summers v. Tice

Summers v. Tice

Three reasons for alternative liability:

1. Almost 51% probability
2. Fairness
3. “Smoke out” the real evidence

Summers v. Tice

~~Three reasons~~ for alternative liability:

1. ~~Almost 51% probability~~
2. Fairness
3. ~~“Smoke out” the real evidence~~

Hymowitz v. Eli Lilly & Co.