

Customs and Statutes

Proving Negligence

To establish that conduct fell below standard of reasonable care, plaintiff needs to prove:

1. What defendant did or did not do.
2. What defendant should have done.

How to use customs and statutes

Sword for proving negligence

Prove two things:

- Custom or statute = reasonable care
 - Defendant failed to comply with custom or statute
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Shield for disproving negligence

Prove two things:

- Custom or statute = reasonable care
- Defendant complied with custom or statute

Negligence per se

- Actor violates a statute that is designed to protect against this type of accident and harm

AND

- the accident victim is within the class of persons the statute is designed to protect.

Rushink v. Gerstheimer

“Leaving Keys in the Ignition”

In recommending the enactment of section 1210, the Joint Legislative Committee on Motor Vehicle Problems stated that the proposed law was:

“designed to obviate the risk of a vehicle moving from the place where it was left parked and possibly injuring the person and property of others as well as itself being damaged. It serves to lessen the likelihood of theft”

Trimarco v. Klein

“Broken Shower Door”

Robinson v. District of Columbia

“Jaywalking”

Exercise

You are a Supreme Court Justice in the State of Loyola Supreme Court, hearing a case on appeal. Your small group represents the entire Loyola Supreme Court.

How do you rule? You are welcome to have majority opinions, concurring opinions, and dissenting opinions.