

Res Ipsa Loquitur

Thursday's Class Rescheduled

10:30am in the Robinson Moot Courtroom

How does a plaintiff normally prove duty and breach?

D was legally obligated to do X.

D failed to do X.

Therefore, D breached their legal duty.

Detailed version

D had a duty (to the plaintiff) to exercise reasonable care under the circumstances.

Reasonable care under the circumstances was X, because of

- foreseeability,
- reasonable person standard,
- custom,
- statute,
- or hand formula.

D failed to do X, therefore D acted negligently / breached their legal duty to plaintiff.

What's so special about *res ipsa*?

If *res ipsa* applies, plaintiff can prove duty and breach without establishing a standard of care.

Two requirements for *res ipsa* to apply:

1. Harm results from. . . ?
2. Defendant was. . . ?

Two requirements for *res ipsa* to apply:

1. Harm results from the kind of situation in which negligence can be inferred
2. Defendant was responsible for the instrument of harm

Case Recap

Byrne v. Boadle: “The Falling Flour Barrel”

Larson v. St. Francis: “The Falling Armchair”

Connolly v. Nicollet Hotel: “The Chaotic Convention”

Why *Allow Res Ipsa Loquitur?*

Why *Allow Res Ipsa Loquitur*?

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

McDougal v. Perry

Ybarra v. Spangard

Ybarra v. Spangard on Remand

- Plaintiff's expert and court-appointed expert testified that the injury was traumatic in origin and not the result of infection.
- Defendants each testified that they saw nothing occur which could have caused the injury.

If you were the trial judge conducting a bench trial, what would your verdict be?

In-Class Exercise for Res Ipsa Loquitur

You are deciding a case as an appellate court judge.

Organize your notes according to the CREAC method:

- Conclusion
- Rule
- Explanation
- Application
- Conclusion