

WESTLAW

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Overview (14)

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Demag v. Better Power Equipment, Inc.
 Supreme Court of Vermont. | July 18, 2014 | 197 Vt. 176 | 102 A.3d 1101

TORTS - Premises Liability. Business landowner owed driver duty of **reasonable care** regardless of driver's status as invitee or licensee.

...[15][16] ¶27. The trial court in this case determined that the traditional standard of care applicable to a licensee governed and granted summary judgment to BPE under that standard. We have now changed the applicable standard to require **reasonable care** under all the circumstances. We have described the standard of **reasonable care** in common-law **negligence** as follows: "Whether a defendant is **negligent** depends on whether his or her action was objectively reasonable under the circumstances; that is, the question is whether the actor either does **foresee**...

...¶8. Plaintiff contends that the trial court should have found that he was an invitee rather than a licensee, and that BPE therefore owed him a duty of **reasonable care**. Under such a duty, he argues that there was sufficient evidence of BPE's **negligence** for the case to reach the jury. 1 In the alternative, plaintiff argues that this Court should hold that all lawful visitors to business premises should be entitled to a duty of **reasonable care**....

Endres v. Endres
 Supreme Court of Vermont. | September 19, 2008 | 185 Vt. 63 | 968 A.2d 336

TORTS - **Negligence**. Defendant must have actual or constructive knowledge that he is infected with **sexually transmitted disease** in order to be liable for **negligent** transmission of that disease.

...cmt. b (1965) (stating that "[i]n order that an act may be **negligent** it is necessary that the actor should realize that it involves a risk of causing harm to some interest of another"). Whether a defendant is **negligent** depends on whether his or her action was objectively reasonable under the circumstances; that is, the question is whether "the actor either does **foresee** an unreasonable risk of injury, or could have **foreseen** it if he conducted himself as a reasonably prudent person." ...

...("Foresight of harm lies at the foundation of **negligence**. The opportunity for knowledge, when available by the exercise of **reasonable care**, is the equivalent of knowledge itself. Such knowledge may be implied, imputed and constructed from the circumstances."). We see no reason to depart from this standard in the case of STDs....

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NEGLIGENCE

- 272Qm213 NECESSITY AND EXISTENCE OF DUTY > **Foreseeability**
- 272Qm387 Requisites, definitions and distinctions > **Foreseeability**
- 272Qm431 Intervening and superseding causes > **In general; foreseeability of other cause**
- 272Qm210 NECESSITY AND EXISTENCE OF DUTY > **In general**
- 272Qm233 STANDARD OF CARE > **Reasonable care**

Trial Court Orders | View all 70

Harrington v. Rheume
 Superior Court of Vermont, Rutland County | July 09, 2012 | No. 729-10-09 Rdcv.

...On these facts, Defendants had business dealings with Plaintiff, and owed him a duty of **reasonable care**....

...That does not resolve whether the **reasonable care** standard required Defendants to take preventive measures to prevent Mr. Rheume from assaulting tenants, including Mr. Rheume....

Statutes & Court Rules | View all 52

§ 624. Dual liability; claims, settlement procedure
 VT ST T. 21 § 624 | Effective: July 1, 2018 | West's Vermont Statutes Annotated

West's Vermont Statutes Annotated
 Title Twenty-One. Labor

Vermont Civil Jury Instruction Committee

Plain English Jury Instructions

Section 3. Negligence

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3.0 Negligence—Standard of Care/Reasonable Person

[Name of Plaintiff] claims that [Name of Defendant] was negligent [describe case, e.g. driving auto; maintaining sidewalk; controlling his/her dog; performing legal services etc.]. [Name of Defendant] was negligent if [he/she] was not reasonably careful [summarize activity: driving the car, etc.]. That does not mean that [Defendant] had to use the greatest possible care, like an unusually cautious person. Rather, [he/she] had to exercise the same care a reasonable person [or, if professional liability case, reasonable lawyer, accountant etc.] would have done in [his/her] same circumstances, taking into account the foreseeable risk of injury caused by [his/her] actions. Not every injury is caused by negligence; sometimes accidents happen even when people act reasonably. [For a professional liability case: not every harm is caused by negligence; sometimes mistakes happen even when people act reasonably.]

If you find that [Name of Defendant] was negligent when [he/she] [describe action – drove the car, etc.], you must then decide whether that negligence caused [Name of Plaintiff]'s [accident/injury/harm—describe]. [Causation instruction to follow.]

Reporter's Notes

In professional liability cases or their equivalent (lawyer, accountant, engineer, electrician, etc.), the instruction should be modified as necessary to capture the relevant standard of care, and if the case requires expert testimony to establish the standard of care, the instruction should be modified to inform the jury that it must evaluate the expert evidence to determine the standard of care, and judge defendant's behavior against it. Note that negligence encompasses foreseeability of harm, which must be captured in the instruction. See, e.g., *Edson v. Barre Supervisory Union No. 61*, 2007 VT 62, ¶ 10.

3.1 Negligence Per Se

A person who breaks the law is negligent unless there is a valid excuse. In this case, the law which applies is [specific statutory provision.]