1. **Tort Liability**
2. Intentionally Inflicted Injuries
3. Purpose or knowledge (See *Garrat v. Dailey*, boy moving chair case)
4. An individual doesn’t have to intend to cause harm to be liable (See *Vosburg v. Putney*, boy in classroom kicked case)
5. Failure to Exercise Care
6. Negligence
7. Failure to exercise reasonable care
8. Conduct that creates an unreasonable risk of harm
9. Foreseeability must be present. See *Doe v. Roe*, herpes case.
10. Recklessness
11. Extreme lack of care; a conscious indifference to a known risk of serious harm
12. Contributory Negligence **(modified in recent years)**
13. If the plaintiff’s failure to exercise care for self-protection contributed to their injury or loss, the defendant is completely absolved of liability
14. Comparative Negligence, there are two types
15. Pure, in which damages are reduced in proportion to the plaintiff’s fault
16. Modified, in which there is a 50% threshold. If the plaintiff’s negligence exceeds or equals 50%, there is a bar to recovery
17. Comparative Fault
18. Contributory negligence may be invoked to offset liability for recklessness or strict liability
19. Assumption of the Risk **(completely bars recovery)**, exists if a person
20. Subjectively appreciated a danger,
21. Voluntarily chose to confront it, and
22. Either manifested a willingness to relieve the defendant of any obligation to exercise care or had no expectation that care would be exercised
23. Strict Liability
24. If foreseeability or blameworthy conduct is not present, but there is still liability, then it is strict. See *Hossenlopp v. Cannon*, dog bite case
25. **Intentional Torts**
26. Battery, must establish elements of:
27. Intent to make contact, can be established with either purpose or knowledge
28. Purpose: Subjective desire to cause a forbidden result
29. Knowledge: Substantial certainty that a forbidden result will occur
30. Transferred Intent: If the defendant intended to cause any one of the five-trespassory torts (assault, battery, false imprisonment, trespass to land, trespass to chattels), then the defendant “intended” to cause any invasion within that range of actions that befalls either the intended victim or a third party. See *Keel v. Hainline*, eraser fight case
31. Offensive or harmful contact of the plaintiff or their effects
32. An act is offensive if an ordinary person, unless the defendant knows the person has a peculiar sensitivity, would consider it be so
33. An act is harmful if pain or illness results, or if the structure or function of any part of the plaintiff’s body is altered in any way, even if the alteration causes no other harm
34. Absence of Consent
35. Awards for battery include:
36. Nominal damages (to vindicate the technical invasion of the plaintiff’s rights, if no actual injuries are proved)
37. Compensatory damages (to compensate the plaintiff for such things as lost wages, medical expenses, and pain and suffering)
38. Punitive or exemplary damages (to punish or make an example of the defendant for conduct that is particularly outrageous)
39. Assault
40. Intent to cause **apprehension** of contact, can be established with either purpose or knowledge
41. Present apparent ability to cause contact
42. See *Western Union Telegraph Co. v. Hill*, “fix her clock” case. He had the ability to reach over the counter and grab her
43. A threatening gesture by the defendant (in most instances)
44. Words are not usually enough to establish a cause of action (see *Slocum v. Food Fair Stores of Florida, Inc.*), an actual assault needs a gesture of harm
45. Well-grounded apprehension of imminent, unconsented contact
46. Apprehension must be aroused in the mind of a reasonable person
47. Intentional Infliction of Severe Emotional Distress (Outrage)
48. Intent to cause emotional distress or recklessness
49. Extreme and outrageous conduct
50. Must be “beyond all possible bounds of decency”; “atrocious”; “utterly intolerable in a civilized community”
51. Causation; and
52. Resulting severe emotional distress
53. Distress must be “so severe that no reasonable person could be expected to endure it.” See *Harris v. Jones*, GM-Employee stutter case
54. False Imprisonment
55. Intent to confine
56. The defendant must have intent. If someone accidentally locks a door, leaving a person inside somewhere, there is no false imprisonment. That would be a case of negligence.
57. Unconsented detention within boundaries fixed by the defendant
58. Fixed boundaries may be large or mobile. A car may be considered a boundary. However, if an area is so large, it is no longer confinement, but exclusion from one area.
59. Apparent lack of a reasonable exit
60. There must be no reasonable exit apparent. If the exit entails a likelihood of harm to the plaintiff, this is not a reasonable exit.
61. Use of unreasonable force, threat of force, or assertion of legal authority by the defendant
62. Force may be physical, as a defendant may have the ability to apply force. However, if the plaintiff is aware that there is no threat of force, there is no false imprisonment. Additionally, there is no false imprisonment if one unlawfully asserts legal authority (See *Enright v. Groves*, leash law case).
63. Harm to the plaintiff or knowledge by the plaintiff of the confinement
64. If actual harm is not present, then the plaintiff must be aware of their confinement. Confinement must be involuntary and unprivileged as to the outlook of the plaintiff (See *Peterson v. Sorlien*, cult brainwashing case).
65. Trespass to Land (*Quare Clausum Fregit*)
66. Intent on the part of the defendant to be present
67. Intent must be to be present on the land, but does not require intent to violate another’s land or rights.
68. Unconsented physical presence on, under, or above the land of another
69. A landowner must have exclusive possession of the land and object to the defendant’s presence on it.
70. Trespass to Chattels (*De Bonis Asportatis*), minor interference
71. Intent to affect the chattel
72. Minor interference with the plaintiff’s possessory interest by:
73. Dispossession, which may be committed by:
74. Taking without consent
75. Obtaining by fraud or duress
76. Barring access
77. Completely destroying
78. Taking into the custody of the law
79. Use, or
80. Intermeddling (physical contact)
81. Absent dispossession, damage in the form of
82. Substantial loss of use
83. Impairment of condition, quality, or value. (See *Compuserve v. Cyber Promotions*, e-mail advertisements case).
84. Conversion, major interference
85. An intentional exercise of dominion and control over a chattel, which is more serious than trespass to chattels, and the actor may be required to pay the full value of the chattel. In determining whether the interference is serious enough to justify conversion, consider:
86. Extent and duration of dominion and control
87. Actor’s intent to assert a right inconsistent with the plaintiff’s right to control
88. Actor’s good faith (or bad faith, see *Russell-Vaughn Ford v. Rouse*, salesman lost keys case)
89. Extent and duration of the resulting interference
90. Harm done to the chattel
91. Inconvenience and expense caused
92. **Defenses and Privileges**
93. Consent (*volenti non fit injuria* = to one who is willing, no wrong is done)
94. Actual consent (consent in fact)
95. Plaintiff is willing for the conduct to occur
96. Apparent Consent (objective manifestations)
97. If a reasonable person would understand the plaintiff’s conduct to indicate willingness, there is consent (See *O’Brien v. Cunard*, vaccination case)
98. Implied Consent (policy-based)
99. Interests to be furthered by the invasion are more important than those that will be sacrificed. This is most often used in emergency situations (See *Miller v. HCA, Inc.*, premature baby resuscitation case).
100. Capacity to consent
101. If the individual lacks the capacity to appreciate the nature, extent, and probably consequences of the decision, there is no consent. Lack of capacity may also arise from infancy, agedness, or medical disability. (See *Davies v. Butler*, Sundowners case).
102. Consent based on Mistake
103. Any mistake by the plaintiff as to a material fact, which is known by the defendant, destroys consent. (See *DeMay v. Roberts*, non-doctor in house case).
104. In General
105. Self-Defense
106. Anyone other than the aggressor,
107. Who anticipates immediate physical harm
108. May use reasonable force in self-defense (See *Silas v. Bowen*, drunk customer shot in foot case).
109. Defense of Others
110. May be used by anyone that reasonably believes force is necessary to protect another from physical harm. (See *Drabek v. Sabley*, snowballs thrown at vehicle case).
111. Defense of Property
112. A possessor may use reasonable force to defend property, but not deadly force. (See *Katko v. Briney*, spring-gun farmhouse case).
113. Recapture of Chattels
114. A possessor may use reasonable, non-deadly force to recapture chattels that were wrongfully dispossessed by fraud or force if there is **prompt discovery and fresh pursuit**.
115. Privilege to Detain for Investigation (Shopkeeper’s Privilege)
116. Permits shopkeepers (See *Dillard’s v. Silva*)
117. To detain temporarily
118. In or near their store
119. One reasonably suspected of theft
120. For purposes of reasonable investigation
121. Public Necessity
122. Anyone is privileged to use reasonable force necessary to avoid an imminent risk of greater harm to the community or many persons. (See *Surroco v. Geary*, blown up house case. See also *Wegner v. Milwaukee Mutual Insurance*, house destroyed by SWAT case).
123. Private Necessity
124. Same as public necessity, **except** the action only benefits one or a few persons, and the actor is liable for actual losses. (See *Ploof v. Putnam*, boat tied to dock on island case).
125. Unlawful Conduct (See *Barker v. Kallash*, pipe bomb case).
126. Can be a total bar to recovery if
127. The conduct constitutes a serious violation of the law, and
128. The injuries for which recovery is sought were a direct result of that violation
129. **Damages**
130. Excessive Damages
131. Remittitur and Additur
132. A judge may examine an award for damages to determine if it is too high or too low. If the award is against the evidence, a judge may order a remittitur or additur. The plaintiff can then accept that change or attempt a new trial. (See *Anderson v. Sears*, Helen Britain burn case).
133. Pain and Suffering
134. Some courts allow “per diem” arguments while others consider awards in similar cases. “Day in the life” films are becoming increasingly common as evidence.
135. Hedonic Damages
136. Awards for the loss of ability to participate in activities such as sports, travel, and sexual relations. Not all jurisdictions recognize these.
137. Loss of Consortium
138. Provides compensation for expenses, lost companionship, and affection to:
139. A spouse (in all states)
140. Parents (in many states)
141. Children (in a few states)
142. Siblings (in a few states)
143. Grandparent *in loco parentis* (in one state)
144. Unmarried cohabitants (in one state)
145. Medical and Credit Monitoring
146. Recovery for the cost of future medical examinations intended to detect and treat diseases caused by exposure to toxic substances. (See *Meyer ex rel. Coplin v. Fluor Corp.*, lead smelter pollution case).
147. Recovery for the cost of credit monitoring systems intended to detect and prevent fraud and identity theft.
148. Collateral-Source Rule
149. A defendant’s liability is not reduced because the plaintiff received compensation from a source independent of the tortfeasor. (See *Helfend v. Southern California Rapid Transit District*, plaintiff had already received compensation from insurance company).
150. Avoidable-Consequences Rule
151. A plaintiff may not recover for any aggravation of damages that could have been avoided by the exercise of reasonable care after the defendant committed the wrong. (See *Zimmerman v. Ausland*, injury could have been remedied by surgery) In determining what is reasonable, take into account:
152. Risk
153. Probability of success
154. Expense
155. Effort
156. Pain
157. Survival and Wrongful Death Actions
158. Survival statutes allow a claim to survive the death of either party. If the plaintiff dies, the claim is prosecuted by the estate
159. Wrongful death statutes permit certain persons to recover for losses sustained as a result of the death of another. (See *Gonzalez v. New York City Housing Authority*, murdered grandma case).
160. Loss of Earning Capacity
161. In determining earning capacity, take into account:
162. History of earnings
163. Plaintiff’s health and habits
164. Probability of employment due to age, economic conditions
165. Inflation should be taken into account in calculating both future earnings and discount rate, or left out of both. (See *O’Shea v. Riverway Towing Co.*, lost future earnings are reduced to **present value**).
166. Taxation of Damages (**not the same in all states)**
167. Compensatory damages for personal injury are not taxed
168. Taxation of earnings on investment of a lump sum can be avoided by a structured settlement. Plaintiff will receive payments that are not taxable
169. In wrongful death cases, evidence of future tax liability is usually admitted. (See *Hoyal v. Pioneer Sand Co.*, future tax rates are speculative).
170. Federal courts hold that damages for loss of future earnings are not taxable
171. Punitive Damages (exemplary damages)
172. Awarded to punish or make an example of the defendant
173. In some states, compensatory damages are required for punitive ones
174. Statutes may limit amount
175. Are not available for negligence
176. Factors in assessing punitive damages include:
177. Magnitude of risk
178. Awareness of danger
179. Duration of failure to act
180. Compliance with regulations
181. Purposeful creation of danger
182. Need for deterrence
183. Wealth of defendant
184. Ratio of punitive to compensatory damages may be excessive (See *State Farm v. Campbell*) depending on:
185. Reprehensibility of the conduct
186. Similar conduct in other cases
187. Cannot be based on:
188. Lawful conduct
189. Conduct outside the state
190. Hypothetical claims
191. **Negligence: Basic Principles**
192. Duty
193. *Palsgraf v. Long Island Railroad Co.*
194. The Palsgraf Duty Rule states that, “where there is a risk reasonably to be perceived, there is a duty to be obeyed
195. There was no foreseeability that the injury to Helen Palsgraf would occur, and therefore no duty to be obeyed
196. *Nussbaum v. Lacopo* (golf ball hit house case)
197. A person cannot be expected to guard against harm from events that are so unlikely to occur that the risk, although cognizable, would commonly be disregarded
198. *Gulf Refining Co. v. Williams*
199. If the risk was of sufficient weight and moment that a reasonable person would have avoided it, there is a duty for liability
200. *United States v. Carroll Towing Co.*
201. The Learned Hand Balancing Test states that conduct is negligent if the Burden of prevention is outweighed by the gravity of the Loss times the Probability of the harm. B < L x P
202. Utility vs. Risk formula
203. The utility of the defendant’s action and the burden and feasibility of taking preventative measures are weighed against the gravity of the threatened harm and the probability that such harm will ensue
204. Utility of a given course of conduct is a function of:

i. Social value of the interest the defendant seeks to advance (actions to prevent a cure or disease are important; recreational activities are perhaps less important)

ii. Likelihood that the conduct will advance the desired objective (Is the vaccine likely to be effective? In all cases or just a few?)

iii. Availability of alternatives

 • Technical feasibility

 • Economic and other costs

 • Efficacy

1. Gravity of a threatened harm is a function of:

i. Social value of the interest imperiled (Is there a threat to the life and health of persons or only to property interests?)

ii. Extent of the harm that is threatened (Will there be partial damage or complete destruction?)

iii. Number of persons affected

1. The Reasonable Person Standard
2. Allows the finder of fact to consider that a person under certain circumstances may act differently. It does not change the burden of care, but says, “under these circumstances, did that person act reasonably?”
3. Emergencies are a factor that should be considered in determining if the actor behaved reasonably (in most states)
4. Physical disabilities such as blindness, deafness, height, etc. do not change the standard of care
5. Religious beliefs are held to be a relevant factor, but they do not change the standard of care
6. Age is a relevant factor, and a lesser standard of care may be exercised by minors in certain situations
7. Mental deficiencies and insanity are generally disregarded, and the person is held liable for negligence unless the conduct measures up to that of a reasonable, prudent, full sane person. However, if the insanity is unexpected, then it could be a factor in determining liability
8. Those with superior knowledge, training, or skill (Professional Malpractice) must utilize these talents and foster predictability in their practice
9. Legal malpractice: an attorney implicitly represents that he or she possesses the ordinary degree of learning, skill, and ability and will use his or her best judgment and be diligent and careful. There is no liability for a mere error of judgment on which reasonable lawyers may differ, and there is no guarantee of success
10. Medical malpractice: The failure to obtain informed consent is professional negligence even if treatment is skillfully rendered
11. Judge-Made Standards of Care
12. In *Helling v. Carey*, the judge made a standard stating that “reasonable prudence” required a test to be given to detect glaucoma
13. Negligence Based on Violation of Statute
14. Does the statute set the standard of care?

i. If the legislature says it does

ii. The court says it does anyway

1. Was there an excuse for the violation?
2. What is the effect of an unexcused violation?

i. Negligence *per se*: jury is told what the statute requires and what, if anything, constitutes an acceptable excuse

ii. *Prima facie* negligence: jury is directed that, if the facts show there was a violation of statute but no excuse, it must conclude that the defendant’s conduct fell below the standard of care

iii. Some evidence of negligence: jury is instructed that even if it finds there has been an unexcused violation of statute, it is evidence of negligence

1. Did the violation cause the injury?
2. Can the defendant raise a defense?
3. Excused Violations of Statute, possible excuses include:
4. Incapacity to comply
5. Ignorance of the need to comply
6. Inability to comply despite diligence
7. Emergency
8. Greater risk of harm
9. Special Standards of Care
10. Degrees of negligence: slight, ordinary, and gross. Distinctions between them are usually disregarded
11. **Proving Negligence**
12. Direct evidence: evidence of the fact in question
13. Example: eyewitness testimony as to the identity of the assailant
14. Circumstantial evidence: evidence from which the fact in question may be inferred
15. Example: fingerprints, skid marks
16. Constructive notice
17. Liability for negligence depends on foreseeability, not notice
18. If the harm was not otherwise foreseeable, plaintiff must establish that the defendant had actual or constructive notice of the danger
19. Constructive notice is established by evidence that the danger existed so long that it should have been discovered through the exercise of reasonable care (banana peel cases)
20. Mode of operation

a. Focuses on the nature of the defendant’s business that gives rise to a substantial risk of injury to customers from slip and fall accidents (*Sheehan v. Roche Brothers Supermarkets*, grape slip and fall case)

1. Evidence of Custom
2. Custom does not determine the standard of care
3. Conformance with custom raises an inference of reasonableness
4. In *The T.J. Hooper*, the court found no custom of having radio receivers of tugboats, so not to have one was reasonable behavior
5. Departure from custom raises an inference of unreasonableness
6. *Res Ipsa Loquitur* (the thing speaks for itself)
7. A kind of circumstantial evidence from which breach and causation can be inferred
8. Elements:
9. The event ordinarily does not occur in the absence of negligence
10. Facts indicating that the defendant’s conduct, more likely than not, was a cause of the event. Consider control and knowledge in determining if it was a cause
11. Multiple defendants
12. In *Ybarra v. Spangard*, the court found multiple defendants liable for negligence because the plaintiff was unconscious and could not identify which person caused his injury
13. Procedural effect of *Res Ipsa Loquitur*
14. Permissible inference (majority)
15. Presumption that shifts the burden of going forward with evidence
16. Presumption that shifts the burden of persuasion
17. Spoliation of Evidence
18. Some states permit an independent action
19. Others use presumptions or sanctions
20. In *Trevio v. Ortega*, the court found that the availability of other remedies made recognition of an independent tort action for spoliation unnecessary and undesirable
21. The choice of remedy should depend upon the culpability of the spoliator and the prejudice to the plaintiff
22. **Factual Causation**
23. Defined as a factual inquiry into whether the defendant’s conduct precipitated the injury
24. Plaintiff normally has the burden of proof
25. Conduct is a “substantial factor” if it was:
26. Indispensable (“but for”)
27. Independently sufficient
28. Otherwise substantial
29. Overview of causation
30. *Williams v. Steves Industries, Inc.*
31. Plaintiff’s car was struck on the highway as a result of her negligence to fill it up with gas. The damages would not have occurred “but for” her negligence. This is an example of factual causation
32. *Sine Qua Non*: the “but for” test
33. *Reynolds v. Texas and Pacific Railway Co.*
34. Defendant’s conduct can never be a factual cause unless the chances of harm to the plaintiff have been multiplied
35. *Kramer Service, Inc. v. Wilkins*
36. One in a hundred chance that the contribution was a but-for cause is no basis for liability
37. *Salzler v. Advanced Group 400*
38. Causation cannot be speculative. Plaintiff could not identify her assailants and there was no factual causation
39. Independently sufficient causes and related problems
40. *Anderson v. Minneapolis, St. P. & S.S.M. Ry. Co.*
41. Any of three fires could have been responsible for burning plaintiff’s house. Any one of the fires alone would have caused a similar result. The “but for” test is not satisfied, so some other test is needed
42. Loss of Chance Rule
43. Doctrine that allows a plaintiff to recover damages by showing that the defendant was a substantial factor in causing the plaintiff to lose a significant chance of escaping the harm in question. This doctrine is not accepted by all states
44. *Matsuyama v. Birnbaum*
45. Doctor’s negligence deprived the plaintiff of a less-than-even chance of surviving cancer
46. Multiple fault and alternative liability
47. The burden of proof on factual causation shifts to the defendants if:
48. Each is shown to have acted tortiously
49. The actual wrongdoer is one of the small number of defendants before the court, and
50. The nature of the accident makes it impossible for the plaintiff to prove causation
51. Each defendant is subject to full liability for the plaintiff’s injuries, absent proof of factual causation. (*Summers v. Tice*, both defendants were liable because it could not be proved which shot hit the plaintiff)
52. Market-Share and Enterprise Liability
53. California version of Market-Share Liability: each defendant is liable for the part of the judgment proportional to their share of the market, unless they can prove that they did not produce the dosages which caused plaintiff’s injuries (*Sindell v. Abbott Laboratories*)
54. New York version of Market-Share Liability: defendants are liable for the judgment proportional to their share of the market. Even if they can prove that they did not produce the dosages that caused the plaintiff’s injuries, they are still liable. (*Hymowitz v. Eli Lilly and Co.*)
55. Enterprise liability: burden shifts to defendants if they jointly controlled the risk and it is virtually certain the responsible party is in court (*Hall v. Dupont*)
56. Liability based on concerted action
57. Civil conspiracy
58. An agreement between two or more persons;
59. To participate in an unlawful act, or in a lawful act in an unlawful manner;
60. An injury cause by an unlawful overt act performed by one of the parties to the agreement;
61. Which overt act was done pursuant to and in furtherance of the common scheme
62. *Herman v. Wesgate*, parties did not lay hands upon the plaintiff, but encouraged or otherwise aided the misconduct of the primary actors
63. Aiding-and-Abetting
64. The party whom the defendant aids must perform a wrongful act that causes and injury;
65. The defendant must be generally aware of his or her role as part of an overall illegal or tortious activity at the time the assistance is provided; and
66. The defendant must knowingly and substantially assist the principal violation
67. *Halberstam v. Welch*, defendant was liable because she assisted with her husband’s illegal activities and was aware of the illegal activity
68. Incitement
69. Liability for encouragement of one to do a wrongful act
70. **Proximate Causation**
71. Defined as a policy inquiry into whether it is fair to impose liability on a defendant whose conduct was a factual cause
72. Directness and Remoteness
73. Direct causation view: retrospective approach that holds that liability extends to any harm which flows in a continuous stream from the actor’s tortious conduct
74. Foreseeability
75. Prospective approach limiting liability to foreseeable damages
76. *Wagon Mound No. 1*
77. Defendants were not held liable because they could not foresee that the oil could be set afire when spread on water
78. *Wagon Mound No. 2*
79. Defendants were held liable because there was a remote possibility that the harm could be foreseen
80. The “Eggshell Skull” Doctrine
81. *McCahill v. New York Transp. Co.* (delirium tremens case). If a plaintiff suffers any foreseeable injury, even a trivial one, the defendant is liable for all physical consequences, even unforeseeable injuries, so long as they do not stem from superseding causes
82. Manner of Occurrence and Kind and Extent of Harm
83. *Merhi v. Becker* (drunk picnic case). The precise manner of harm does not need to be foreseen. A risk of physical harm was present and that was enough to make the defendant liable
84. *Kinsman No. 1*. The full extent of the physical harm was not seen, but the defendants were still held liable for damages to the plaintiff
85. *Kinsman No. 2*. The relationship of the plaintiff’s damages to the defendants’ negligence was “too tenuous and remote” for liability
86. Result within the Risk
87. *DiPonzio v. Riordan*
88. The defendant was not liable because the plaintiff’s injuries did not fall within the scope of risks presented by the defendant’s negligence
89. Intervening and Superseding Causes
90. Intervening Cause: a force which comes into play after the tortious conduct of the defendant, and which participates along with the defendant’s conduct in causing injury to the plaintiff
91. Superseding Cause: a type of intervening force which breaks the chain of proximate causation between the defendant’s negligence and the plaintiff’s harm
92. Foreseeable End Results
93. *Derdiarian v. Felix Contracting Corp.* The defendant was liable because they negligently failed to put up barriers that would have prevented the plaintiff’s injuries. It was not a superseding cause because it was the general sort of harm foreseeable
94. Intervening Acts
95. *Spears v. Coffee*. The defendant was not liable because other defendant’s actions were a superseding cause. Second defendant’s actions were not foreseeable.
96. Rescue Doctrine
97. *Altamuro v. Milner Hotel*. One who imperils his own life for the sake of rescuing another from imminent danger is not chargeable with contributory negligence. If the life of the rescued person was endangered by the defendant’s negligence, the rescuer may recover for the injuries that he suffered from the defendant in consequence of his intervention
98. Shifting Responsibilities
99. If a defendant creates a risk of harm to a plaintiff, it is irrelevant that a third person fails to prevent that harm. The omission of the third party is not superseding cause and the defendant will be held liable for complications that could have been avoided by the third party. However, the duty can be passed to a third person in certain situations.
100. *Goar v. Village of Stephen*
101. A contract provided that duty passed to the Village rather than the company that installed the electrical lines. Therefore, the Village was held liable
102. *Bailey v. Lewis Farm, Inc.*
103. The original owner of a trailer was held liable for negligently maintaining the axle when he possessed it. The sale of a dangerous instrumentality to another ordinarily does not relieve the seller of liability for injuries caused to third persons after the sale.