1. **Overview**
   Negligence Liability Principles

2. **Reasonableness Standard**
   - risk reasonably to be perceived
   - defines the legal duty to be obeyed

3. **Foreseeable risk of injury**
   - not a mere possibility
   - but a probability

4. **Based on own experience of common understanding**
   - Injury has occurred before, likely to happen again
   - unless precautions taken

5. **Only foresee AN injury, not THE injury**
   - within general scope of danger
   - not particular manner injury incurred

6. **Negligence: conduct involving UNREASONABLE risk of injury**
   - weigh social utility of conduct against risk of injury

7. **Negligence presupposes defendant has SUPERIOR KNOWLEDGE**
   - of an unreasonable risk

8. **General scope of risk not reasonably known to plaintiff prior to injury**
Where plaintiff’s risk knowledge at least EQUAL not unreasonable, if readily observable through use of senses

9 Reasonableness is Two-Way Street

plantiff has duty to look out reasonably for his/her own safety and avoid known or discoverable hazards

10 Known or obvious dangers
do not impose an unreasonable risk of harm necessary to impose negligence liability

11 Hueston
v.
Narragansett Tennis Club, Inc.
R.I. 1986

Foresee "An" Injury, Not "The" Injury

12 Prudent person rule

standard to measure conduct whether due care exercised

13 Ordinary Care

such care as person of ordinary prudence exercises under circumstances
of danger to be apprehended

14 D: duty to guard against usual occurrences

no duty to protect P from remote, unusual events

15 ISSUE

While P's injury unusual whether foreseeable

16 Foreseeable
relates to natural & probable consequences of an act

17 One need only reasonably to foresee that AN injury may result from a dangerous condition on the premises

18 The particular kind of injury need not have been foreseen

19 Proximate cause need not be the sole & only cause
may occur with some other cause acting at same time to produce injury

20 P's wearing unusual ring not independent intervening cause of injury
NELSON BY TATUM  
v.  
COMMONWEALTH EDISON

465 N.E.2d 513  
(Ill.App. 2 dist. 1984)

P, 10yrs, electrocuted tossing wire spool 30ft into wires above playground;

trial ct. dismissed, not foreseeable like kite, ball

Whether unforeseeable,  
no duty to protect

For proximate cause, not necessary to foresee exact method or precise manner of injury;

result foreseeable (electrocution), method is irrelevant.

D, utility & park district duty of protection commensurate with risks

, i.e. wires properly placed & insulated where circumstances indicate persons in close proximity.

Holding: when high voltage wires in public playgrounds duty to provide safe air space.

height, location, voltage, clear chance of contact and severe injury; reducing risk not onerous,
wires insulated, underground, redirected around playground air space causing no undue economic, social costs.

COLEMAN  
v.  
WINDY CITY BALLOON PORT, LTD.

Crash & burn, collision with wires 1.5 mi from port  
approaching storm,  
wind to 37 mph;

D insulation for trees,  
depends on location, circuit breakers;  
balloons taught to avoid wires,

D seminars,  
wires used as reference point;  
wire marking warning devices available; wires conformed to regs.

Trial summary judgment to D,  
danger open & obvious,

not reasonably foreseeable,  
requiring insulated wires would impose duty for entire system.

P: duty to warn for even known dangers;  
signs, lights in balloon traffic area.
Electricity for profit, duty care corresponding to danger;

wires properly insulated & placed for safety of those likely to come into contact with wires.

Trial ct. could conclude crash site not area where people likely to come into contact with wires;

unforeseeable nature of accident est. lack of duty.

Foreseeable: what reasonable, prudent person likely to happen;

what was apparent to D at time of injury, not 20/20 hindsight;

ballfield lime eye injury to 10 yr. old

City of Jacksonville v. Raulerson Fla.App. 1982

Injury Foreseeable, Safer Alternative Available

City responsible for maintaining ballfield

local youth athletic association helped line fields
plaintiff helped employee of association
machines containing lime
left unattended

Issue: whether reasonably foreseeable
use of lime would result in any eye injury to a child which occurred...

which could have been reasonably prevented
by an available alternative to the use of lime

City had knowledge of injury causing propensity of lime

7 yrs prior to accident 8 employees sustained minor eye injuries
while using lime to line playing fields

No evidence of injuries to minors
inert marble dust available as alternative

City planned to switch to marble dust
but continued to use lime in stock
until it was used up

Whether injury to minor unforeseeable
reasonably foreseeable - natural & probable
as opposed to simply possible

Foreseeability relates to the injury causing propensity of the condition (lime)
rather than the status and expected presence of the injured plaintiff
(employee or child)

50 □ Lime was inherently dangerous substance dispensed by city

51 □ child had helped line field in presence of city employees

employees had been previously injured through use of lime

52 □ Foreseeable one of child helpers would be similarly injured

could have been prevented by use of existing safer alternative

53 □ Jenkins
   v.
   City of Miami Beach
   Fla.App. 1980

Injury Within Scope of Danger?

54 □ P injured when struck in eye by piece of copper wire pulled from park
   water fountain

55 □ alleged failure to supervise park at night despite knowledge frequented
   by minors

failure to maintain fountain proximate cause of injury
P: Intervening act reasonably foreseeable

given D's knowledge of previous incidents of vandalism & unruly conduct by minors in park at night

Alleged negligent maintenance of fountain did not make it foreseeable that boy would use protruding coil as fortuitous missile to hurl at P

foreseeable risk of laceration by protruding coil when using fountain

Foreseeable if harm that occurred was within the scope of danger attributable to D's negligent conduct

No evidence D had knowledge that failure to maintain fountain would result in this type of injury

Or, in field of human experience allowing loose coil on fountain frequently resulted in it being used as missile to assault others

and D should have expected such a thing to occur in park

Verdun
v.
Dept of Health & Human Resources
La.App. 1992

Lake Pollution Causes Bacterial Infection

Trial court: no duty to monitor or warn
of lake bacteria

64 Causation: whether D's conduct played significant or substantial role in causing P's harm

65 Evidence of warnings, but P did not know whether read or heard warnings that Lake polluted or not to swim in lake

66 P admitted knew Lake polluted but not to point that it would harm anyone

67 P: no signs at boat launch, did not see signs elsewhere on lake

68 Landowner duty to discover any unreasonably dangerous conditions and either to correct the condition or warn of its existence

69 Bacteria did not pose a significant health risk esp. to a person with momentary contact with water

70 Marine bacteria here no result of pollution or human use capable of causing disease, but very rarely caused illness risk of P's injury statistically insignificant

71 Lake did not pose any danger other than those normally associated
with all warm, brackish salt water

Likelihood far to remote to be considered an unreasonable risk of harm

Boat launch great social utility signs warning of every bacteria would effectively close lake

No evidence D assumed duty to warn or monitor lake absent evidence of UNREASONABLY dangerous condition

D owed no such duty to those using boat launch


Relative Risk Knowledge

P's son, 17, drowned in D's pool, lights out.

drowning readily observable condition.

Landowner liability based upon superior knowledge of unreasonable risk of harm not reasonably known by invitee.

Landowner not liable for readily observable condition
which should be known & appreciated by invitee

No duty to warn because invitee has knowledge conveyed by warning.

No necessity to warn against the obvious.

Superior or equal knowledge of SIGNIFICANCE regarding physical facts.

D liable for injuries caused by defects not disclosed by reasonable inspection by invitee.

Jury could find D had greater knowledge of greater degree of danger & risk than apparent to invitee

no pool lights.

Comprehension of hazard is quality of risk & quantity of danger.

Physical facts lack of pool light increased risk of drowning not equally known to P's son & D.

Hanks v. Mount Prospect Park District Ill.App. 1993
Hazard Off Premises,  
No Duty to Fence

_86_ Whether locating playground immediately contiguous to driveway or parking lot

a hazardous & unreasonably dangerous condition?

_87_ Here, no allegation of any dangerous condition on playground

_88_ no dangerous condition on D's property

condition of D's property did NOT increase danger in adjacent parking lot

_89_ ISSUE: whether D owed duty to provide safe means of ingress & egress to playground

_90_ landowner has duty to provide a safe means of ingress & egress to his premises for his invitees

_91_ Within limits, duty may extend beyond precise boundaries of landowner’s property

_92_ Not liable where landowner has exercised NO CONTROL over adjacent property

_93_ NO Duty to erect fence, or take other steps to prevent injury on
adjacent roadway

94 would place intolerable burden on P.D. to protect children from traffic injuries

access to restricted or every park & playground relocated

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