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Standards of Care and the Reasonable

The standard of care required in negligence law typically relates to a person's conduct, rather than a person's state of mind. In most instances, a defendant is required to exercise the same "ordinary care" or "due care" that a reasonable person would exercise in the same or similar circumstances. Negligence cases often focus on the reasonableness requirement.

Reasonable Person

The so-called reasonable person in the law of negligence is a creation of legal fiction. Such a "person" is really an ideal, focusing on how a typical person, with ordinary prudence, would act in certain circumstances. The test as to whether a person has acted as a reasonable person is an objective one, and so it does not take into account the specific abilities of a defendant. Thus, even a person who has low intelligence or is chronically careless is held to the same standard as a more careful person or a person of higher intelligence.

A jury generally decides whether a defendant has acted as a reasonable person would have acted. In making this decision, the jury generally considers the defendant's conduct in light of what the defendant actually knows, has experienced, or has perceived. For example, one may consider a defendant working on a loading dock and tossing large bags of grain onto a truck. In the process of doing this, the defendant notices two children playing near the truck. The defendant throws a bag towards the truck and unintentionally strikes one of the children. In this instance, a jury would take into account the defendant's actual knowledge that children were playing in the area when the jury determines whether the defendant acted reasonably under the circumstances. One must note, however, that the defendant would be liable for negligence only if the defendant owed a duty to the child.

In addition to the defendant's actual knowledge, a jury also considers knowledge that should be common to everyone in a particular community. Accordingly, the defendant in the example above would be charged with knowing that a bag of grain could injure a child, as well as with knowing the natural propensities of children.

Standards of Care for Children

A child generally is not expected to act as a reasonable adult would act. Instead, courts hold children to a modified standard. Under this standard, a child's actions are compared with the conduct of other children of the same age, experience, and intelligence. Courts in some jurisdictions, however, apply the adult standard of care to children who engage in certain adult activities, such as snowmobiling.

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