

CHECKLIST

- Overview
- Breach of Duty
- Negligence = Failure to use RC
- RC Defined
- Negligence per se
- Was a *statute* violated?
- No plausible excuse x IS<sup>n</sup> of law
- Is this a **Cardozo** jurisdiction?
- If not a Cardozo jx, strong evidence
- Industry Custom
- Expert testimony concerning practices
- Custom is persuasive, but not dispositive
- Res ipsa loquitur
- Elements
- Is this the *type* of accident suggesting negligence?
- Did defendants have **exclusive control**?
- Did the plaintiff **contribute**?
- "Rulebook" violation?
- Argument by **analogy**
- Strict Liability
- Other forms **don't** seem to apply
- ADA
- Description of **Restatement** factors
- Application of Rstmt factors debatable
- seller of fireworks

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