Volume 1

PART I. GENERAL PRINCIPLES

CHAPTER 1. INTRODUCTION

A. IN GENERAL

§ 1:1	Statement of doctrine
§ 1:2	Origin and development of doctrine
§ 1:3	Theoretical basis of doctrine
§ 1:4	Nature of doctrine
§ 1:5	Types of actions in which doctrine applicable
§ 1:6	Dependency on relationship of parties
§ 1:6.50	Effect of death of party at fault

B. RELATIONSHIP TO OTHER DOCTRINES

§ 1:7	Proving negligence by circumstantial evidence
§ 1:7.50	Doctrine of unavoidable accident
§ 1:8	Presuming negligence from statutory violation
§ 1:9	Doctrine of strict or absolute liability
§ 1:10	Effect on last clear chance doctrine

C. CONFLICT OF LAWS

- $\S~1:11$ The law of the forum governs
- § 1:11.50 Lex loci delicti

D. LAW APPLICABLE IN DIVERSITY OF CITIZENSHIP ACTIONS IN FEDERAL COURT

- § 1:12 Applicability of state law
- § 1:13 Conflict of laws

CHAPTER 2. PREREQUISITES FOR APPLICATION OF DOCTRINE

A. IN GENERAL

- § 2:1 The essential elements of the doctrine
- § 2:2 —Where injury caused by defect in an instrumentality
- § 2:3 Direct or circumstantial proof of elements

B. ACCIDENT OF A KIND NOT HAPPENING WITHOUT DEFENDANT'S NEGLIGENCE

- § 2:4 Defendant's negligence as reasonable probability
- § 2:5 Occurrence due to causes other than negligence of defendant
- § 2:6 Circumstances negativing defendant's negligence
- § 2:7 Applicability of presumptions of innocence and due care
- § 2:8 Expert testimony

C. CONTROL OF INSTRUMENTALITY CAUSING INJURY

1. IN GENERAL

- § 2:9 Necessity of establishing the instrumentality causing injury
- § 2:10 Necessity of establishing defendant's control of injuring-instrumentality
- § 2:11 Divided control
- § 2:12 Time of control
- § 2:13 Actual or constructive control
- § 2:14 Right of inspection and user
- § 2:15 Ownership of instrumentality
- § 2:16 Two or more injuring instrumentalities involved
- § 2:17 Injuring-instrumentality under joint control of two or more persons
- § 2:18 Proof of control

2. INJURED PERSON'S CONTROL OVER OR CONNECTION WITH INSTRUMENTALITY

- § 2:19 Injured person's control over injuring-instrumentality
- § 2:20 Injured person's control not a causative factor
- § 2:21 What constitutes injured person's control

§ 2:22 Several injuring-instrumentalities involved

D. ABSENCE OF VOLUNTARY ACTION ON PART OF PLAINTIFF

- § 2:23 Plaintiff's contribution to injury or accident
- § 2:24 Use of instrumentality for unintended purpose
- § 2:25 Contributory negligence or assumption of risk

E. SUPERIOR KNOWLEDGE OF DEFENDANT; EVIDENCE MORE READILY AVAILABLE TO DEFENDANT

- § 2:26 Generally
- § 2:27 Equality of knowledge and accessibility of evidence
- § 2:28 Extent of plaintiff's duty to obtain evidence

CHAPTER 3. OPERATION AND EFFECT OF DOCTRINE

8 3:1	Limitation of doctrine; Necessity of proving
	elements of negligence action
§ 3:2	—Applicability of doctrine in cases of gross, wilful, or wanton negligence
§ 3:3	Doctrine as creating presumption or warranting inference of negligence; Definitions
§ 3:4	View that doctrine warrants an inference of negligence
§ 3:5	View that doctrine creates a presumption of negligence
§ 3:6	Procedural effect of inference view; Nonsuit or dismissal at close of plaintiff's case
§ 3:7	—Directed verdict for plaintiff at close of plaintiff's case
§ 3:8	—Directed verdict for plaintiff at close of entire case
§ 3:9	—Directed verdict for defendant at close of entire case
§ 3:10	—Effect on appeal
§ 3:11	Procedural effect of presumption view; Nonsuit or dismissal at close of plaintiff's case
§ 3:12	—Plaintiff's right to a directed verdict
§ 3:13	—Defendant's right to a directed verdict
§ 3:13.50	Jury instructions
§ 3:14	Burden of proof and burden of evidence

§ 3:15	—Overcoming or rebutting the presumption or inference
§ 3:16	—Defendant's failure to produce available evidence
§ 3:17	Summary judgment
§ 3:18	—Forms

CHAPTER 4. AGAINST WHOM DOCTRINE APPLIES; MULTIPLE DEFENDANTS

A. IN GENERAL

- § 4:1 Generally
- § 4:2 Municipal corporation; Public utility
- § 4:3 State

B. UNITED STATES; FEDERAL TORT CLAIMS ACT

- § 4:4 Generally
- § 4:5 What law governs
- § 4:6 Effect of pleading or proving specific allegedly wrongful conduct
- § 4:7 Applicability of doctrine to particular situations

C. MULTIPLE DEFENDANTS

requirements

- § 4:8 Generally
- § 4:9 Applicability of doctrine against multiple defendants
- § 4:10 Cases relaxing conventional requirements of doctrine
- § 4:11 Availability of doctrine as between concurrent tortfeasors; Basis for contribution

CHAPTER 5. PLEADING, PROOF, AND TRIAL

A. EFFECT OF DOCTRINE ON PLEADING

§ 5:1 Effect of doctrine on sufficiency of pleading
§ 5:2 —Where plaintiff seeks to invoke doctrine
§ 5:3 —Bill of particulars
§ 5:4 Necessity of expressly pleading doctrine
§ 5:5 Sufficiency of notice of invocation of doctrine where required
§ 5:5.50 Considering doctrine on motion to amend complaint
§ 5:5.60 Reliance on doctrine as exception to enhanced pleading

- § 5:5.70 Statutes and rules
- § 5:5.80 Cases

B. EFFECT OF PLEADING ON DOCTRINE

1. IN GENERAL

- § 5:6 Applicability of doctrine under general allegations of negligence
- § 5:7 Conflict of views as to applicability of doctrine under specific allegations of negligence
- § 5:8 Practical considerations

2. ALLEGATIONS OF SPECIFIC ACTS OF NEGLIGENCE AS BARRING RELIANCE ON DOCTRINE

- § 5:9 Where plaintiff alleges specific acts of negligence only
- § 5:10 Where plaintiff combines allegations of specific acts of negligence and general negligence

3. ALLEGATIONS OF SPECIFIC ACTS OF NEGLIGENCE AS LIMITING RELIANCE ON DOCTRINE TO PROVING THOSE ALLEGATIONS

- § 5:11 Where plaintiff alleges specific acts of negligence only
- § 5:12 Where plaintiff combines allegations of specific acts of negligence and general negligence

4. ALLEGATIONS OF SPECIFIC ACTS OF NEGLIGENCE AS NOT RESTRICTING RELIANCE ON DOCTRINE

- § 5:13 Where plaintiff alleges both specific and general negligence
- § 5:14 Where plaintiff alleges specific negligence but general negligence is in issue

5. PARTICULAR ALLEGATIONS AS SPECIFIC OR GENERAL

- § 5:15 Where reliance on doctrine barred by allegations of specific negligence only
- § 5:16 Where reliance on doctrine limited to proving allegations of specific negligence

§ 5:17 Where reliance on doctrine not restricted by allegations of specific negligence

C. EFFECT OF EVIDENCE ON DOCTRINE

- § 5:18 Evidence showing specific physical cause of injury
- § 5:19 Evidence not clearly showing specific physical cause of injury
- § 5:20 —Specific evidence submissible with inference of res ipsa loquitur doctrine
- § 5:21 Specific physical cause of accident as distinguished from legal cause of accident
- § 5:22 Actions involving multiple defendants
- § 5:23 Defendant's evidence; Evidence on cross-examination or in rebuttal
- § 5:24 Practical considerations

D. PROVINCE OF COURT AND JURY

- § 5:25 Determination of applicability of doctrine
- § 5:26 Determination of liability when doctrine applicable

E. TRIAL TECHNIQUES

- § 5:27 Form of trial brief
- § 5:28 Form of opening statement
- § 5:29 Form of prima facie case
- § 5:30 Form of closing statement

F. INSTRUCTIONS TO JURY

- § 5:31 Generally
- § 5:32 Instruction as to mere proof of an accident
- § 5:33 Instruction as to nature of doctrine as inference or presumption
- § 5:34 Instruction as to burden of proof
- § 5:35 Instruction as to presumption of due care
- § 5:36 Instruction as to defense of contributory negligence
- § 5:37 Instruction in action involving multiple defendants
- § 5:38 Request for instructions; Refusal of instructions
- § 5:39 Forms of instructions

G. OTHER MATTERS

§ 5:40 Discovery

CHAPTER 6. STATUS, APPLICATION, AND EFFECT OF DOCTRINE IN EACH JURISDICTION

0.01	G 11
6:1	Generally
6:1.20	Statutory Res Ipsa Loquitur—In general
6:1.40	—In specific types of cases—Medical malpractice
6:1.60	—In other types of cases
6:2	Alabama
6:3	Alaska
6:3.50	—Jury instructions
6:4	Arizona
§ 6:5	Arkansas
§ 6:6	California
§ 6:7	—Elements, generally
§ 6:8	—Probability
§ 6:9	—Doctrine as raising inference rather than presumption; Weight
6:10	—Effect of doctrine on burden of proof
6:11	—Effect of plaintiff's allegation of specific acts of
2.4.10	negligence
6:12	—Proof of specific acts of negligence
6:12.50	—Jury instructions
6:13	Colorado
6:14	—Pleading or proof of specific negligence
6:15	Connecticut
6:16	Delaware
6:17	District of Columbia
§ 6:18	Florida
6:19	—Effect of pleading or proving specific facts
6:19.50	—Jury instructions
§ 6:20	Georgia
§ 6:20.50	—Jury instructions
8 6:21	Hawaii
6:22	Idaho
6:23	Illinois
6:24	Indiana
6:24.50	—Jury instructions
6:25	Iowa
6:26	—Operation and effect of doctrine
6:27	—Effect of pleading or proof of specific negligence
6:28	Kansas
6:29	—Pleading or proof of specific negligence

THE NEGLIGENCE CASE: RES IPSA LOQUITUR

	THE TUBERANCE CHEEK THE ITEM IS
§ 6:30	Kentucky
§ 6:31	Louisiana
§ 6:32	—Operation and effect of doctrine
§ 6:33	—Pleading or proof of specific negligence
§ 6:34	Maine
§ 6:35	Maryland
§ 6:35.50	—Jury instructions
§ 6:36	Massachusetts
§ 6:37	—Pleading or proof of specific negligence
§ 6:38	Michigan
§ 6:38.50	—Jury instructions
§ 6:39	Minnesota
§ 6:40	—Pleading or proof of specific negligence
§ 6:41	Mississippi
§ 6:42	Missouri
§ 6:43	-Requirements or conditions for invocation of
	doctrine
§ 6:44	—Pleading or proof of specific negligence
§ 6:44.50	—Jury Instructions
§ 6:45	Montana
§ 6:46	Nebraska
§ 6:47	—Pleading or proof of specific negligence
§ 6:48	Nevada
§ 6:49	New Hampshire
§ 6:50	New Jersey
§ 6:51	—Pleading or proof of specific negligence
§ 6:51.50	—Jury instructions
§ 6:52	New Mexico
§ 6:52.50	—Jury instructions
§ 6:53	New York
§ 6:54	—Doctrine as rule of evidence; Evidentiary effect
§ 6:55	—Negligence as reasonable probability
§ 6:56	—Control of instrumentality causing injury
§ 6:57	—Effect of pleading or proving specific acts of negligence
§ 6:58	North Carolina
§ 6:59	North Dakota
§ 6:60	Ohio
§ 6:61	—Doctrine as rule of evidence
§ 6:62	—Evidentiary effect of doctrine; Effect on burden of proof
§ 6:63	—Negligence as reasonable probability
§ 6:64	—Control of instrumentality causing injury

§ 6:65	—Effect of pleading or proving specific acts of negligence
§ 6:66	Oklahoma
§ 6:67	—Effect of pleading or proof of specific acts of negligence
§ 6:67.50	—Jury instructions
§ 6:68	Oregon
§ 6:69	Pennsylvania
§ 6:70	Rhode Island
§ 6:71	South Carolina
§ 6:72	South Dakota
§ 6:73	Tennessee
§ 6:74	—Pleading or proof of specific acts of negligence
§ 6:75	Texas
§ 6:76	—Requisites for application of doctrine
§ 6:77	—Effect of application
§ 6:78	—Effect of alleging or proving specific acts of negligence
§ 6:79	Utah
§ 6:79.50	—Jury instructions
§ 6:80	Vermont
§ 6:81	Virginia
§ 6:82	Washington
§ 6:83	—Conditions or requirements for invocation of doctrine
§ 6:84	—Pleading or proof of specific acts of negligence
§ 6:84.50	—Jury instruction
§ 6:85	West Virginia
§ 6:86	Wisconsin
§ 6:87	—Pleading or proof of specific acts of negligence
§ 6:88	Wyoming
§ 6:89	Puerto Rico

PART II. SPECIFIC APPLICATIONS AND SITUATIONS

CHAPTER 7. IN GENERAL

§ 7:1 Generally

CHAPTER 8. AMUSEMENTS AND EXHIBITIONS

A. IN GENERAL

- § 8:1 Applicability of doctrine
- § 8:2 Effect of doctrine
- § 8:3 Effect of pleading or evidence of specific acts of negligence
- § 8:4 Form of instruction to jury

B. PARTICULAR APPLICATIONS

1. AMUSEMENT RIDES AND DEVICES

- § 8:5 Applicability of doctrine
- § 8:6 Roller coaster or scenic railway
- § 8:7 Merry-go-round
- § 8:8 Slide or chute
- § 8:9 Miscellaneous amusement rides or devices

2. FALLS AND FALLING, COLLAPSING OR THROWN OBJECT

§ 8:10 Applicability of doctrine

3. OTHER APPLICATIONS

- § 8:11 Injury in swimming pool or at bathing resort
- § 8:12 Pushing, crowding or jostling of other patrons
- § 8:13 Parks, playgrounds, and recreation centers
- § 8:14 Miscellaneous applications

CHAPTER 9. ANIMALS

- § 9:1 Injury from animal on highway
- § 9:2 Collision between automobile and animal
- § 9:2.50 Injury to animals
- § 9:3 Injury by or to hired animals
- § 9:3.50 Miscellaneous situations

CHAPTER 9A. ARCHITECTS, ENGINEERS, OR SURVEYORS

§ 9A:1 Generally

CHAPTER 10. AVIATION

A. IN GENERAL

- § 10:1 Applicability of doctrine
- § 10:2 —Actions under Federal Tort Claims Act
- § 10:3 —Actions under Death on the High Seas Act
- § 10:4 Effect of application
- § 10:5 Forms of complaint; Generally
- § 10:6 —Fall or crash of airplane
- § 10:7 Forms of instructions

B. MATTERS AFFECTING APPLICABILITY OF DOCTRINE

- § 10:8 Exclusive control and management of aircraft
- § 10:9 Comparative knowledge or means of knowledge of parties as to cause of accident
- § 10:10 Effect of pleading or proof of specific acts of negligence
- § 10:11 Trial tactics

C. PARTICULAR TYPES, CLASSES, AND INSTANCES OF ACCIDENTS

- § 10:12 Falling or crash of plane in flight
- § 10:13 Collision with other aircraft in flight
- § 10:14 Collision with mountain or other elevation
- § 10:15 Collision with structure or object on surface
- § 10:16 Accident in take-off
- § 10:17 Accident in landing
- § 10:18 —Emergency or forced landing
- § 10:19 Miscellaneous accidents

CHAPTER 11. BEAUTY PARLORS

- § 11:1 Applicability of doctrine
- § 11:2 Inapplicability of doctrine

CHAPTER 12. CARRIERS

A. IN GENERAL

- § 12:1 Applicability of doctrine
- § 12:2 —Connecting carriers

§ 12:3	-Prospective passengers; Employees; Licensees or
	trespassers
§ 12:4	Inapplicability of doctrine
§ 12:5	—Lack of control of carrier
§ 12:6	—Act of god
§ 12:7	Rebutting or overcoming the presumption or inference
§ 12:8	Effect of pleading or proof of specific acts of negligence

B. PARTICULAR APPLICATIONS OF DOCTRINE

§ 12:9	Collisions
§ 12:10	—Lack of control as a factor
§ 12:11	—Effect of evidence of specific negligence
§ 12:12	Carrier's vehicle leaving road or overturning
§ 12:13	—Effect of allegations or evidence of specific acts of negligence
§ 12:14	Hitting of pedestrian
§ 12:15	Derailments
§ 12:16	—Effect of pleading or evidence of specific acts of negligence
§ 12:17	Skidding vehicle
§ 12:18	Tire failure
§ 12:19	Jerks or jolts, sudden starting or stopping
§ 12:20	—Pleading as affecting application of doctrine
§ 12:21	—Evidence as affecting application of doctrine
§ 12:22	—Evidence not establishing precise cause of stopping
§ 12:23	—Evidence establishing precise cause of stopping
§ 12:24	Injury sustained while boarding or alighting
§ 12:25	Injury by fall of baggage or similar objects; Generally
§ 12:26	—Effect of pleading or proving specific acts of negligence
§ 12:27	Loss of baggage
§ 12:28	Breakdown or defect in a conveyance or its equipment; Generally
§ 12:29	Defective car seats
§ 12:30	Defect in, or objects on, floor of conveyance
§ 12:31	Operation of doors and windows
§ 12:31.50	Forms of complaints
§ 12:32	Falling out of door
§ 12:33	Fall of part of equipment or load
§ 12:34	Injury caused by projecting equipment or load

§ 12:35	Injury or death of passenger occasioned by inhalation of exhaust gases or fumes
§ 12:36	Electric shock; Escape of electricity
§ 12:37	Railroad crossing signaling device
§ 12:38	Missiles from outside conveyance
§ 12:39	Misconduct of fellow passengers or employees of carrier
§ 12:40	Injury to intoxicated passenger
§ 12:41	Miscellaneous applications

CHAPTER 13. CONSTRUCTION WORK AND EQUIPMENT

- § 13:1 Operation of crane or derrick
- § 13:2 Miscellaneous applications
- § 13:3 Third person's suit against contractor for injury or damage occurring after completion and acceptance of work

CHAPTER 14. ELECTRICITY, GAS, OIL, STEAM AND HOT WATER

A. INJURY OR DAMAGE FROM ELECTRICAL CURRENT, SERVICE, EQUIPMENT OR APPLIANCES

1. IN GENERAL

- § 14:1 Applicability of doctrine
- § 14:2 Requirement of control
- § 14:3 Effect of pleading or evidence of negligence

2. PARTICULAR APPLICATIONS

- § 14:4 Electrical wires, current or system § 14:5 Fall of pole or attachments thereto
- § 14:6 Lightning transmitted over wires
- § 14:7 Electrified guy wires
- § 14:8 Electric stoves, fans, or other appliances
- § 14:8.50 Miscellaneous applications

B. INJURY OR DAMAGE FROM GAS OR OIL

- § 14:9 Gas leakage or explosion
- § 14:10 —Effect of pleading or evidence of specific acts of negligence

THE NEGLIGENCE CASE: RES IPSA LOQUITUR

§ 14:11	Gas escaping from mains on street
§ 14:12	Gas furnaces or appliances
§ 14:13	Escaping refrigerating gas
§ 14:14	Gas or oil drilling
§ 14:15	Oil or kerosene heating systems
§ 14:15.50	Other situations involving injury or damage from gas or
	oil

C. INJURY OR DAMAGE FROM STEAM AND HOT WATER

§ 14:16 Steam or steam apparatus and hot water

Volume 2

CHAPTER 15. ELEVATORS AND ESCALATORS

A. IN GENERAL

§ 15:1	Practical considerations
§ 15:2	Forms of complaints
§ 15:3	Form of instruction to jury

B. NONAUTOMATIC ELEVATORS

§ 15:4	Generally
§ 15:5	Control
§ 15:6	—Injured person, or third party, operating elevator
§ 15:7	—Proprietor of building housing elevator
§ 15:8	—Lessor of building
§ 15:9	—Elevator maintenance or repair contractor
§ 15:10	Relationship between injured person and defendant;
	Carrier and passenger
§ 15:11	—Employer and employee
§ 15:12	Equality of knowledge and accessibility of evidence
§ 15:13	Effect of pleading or evidence of specific acts of
	negligence
§ 15:14	Voluntary action by person injured
§ 15:15	Doctrine held applicable
§ 15:16	Accident explainable on theory other than defendant's
	lack of care: Doctrine inapplicable

C. AUTOMATIC ELEVATORS

§ 15:17 Applicability of doctrine

D. ESCALATORS

- § 15:18 Applicability of doctrine
- § 15:19 Inapplicability of doctrine
- § 15:20 Effect of pleading or evidence of specific acts of negligence

CHAPTER 16. EMPLOYER AND EMPLOYEE

- § 16:1 Applicability of doctrine
- § 16:2 Factors affecting application
- § 16:3 Effect of assumption of risk and fellow employee rules
- § 16:4 Application of doctrine in particular situations

CHAPTER 17. EXPLOSIONS

A. IN GENERAL

- § 17:1 Applicability of doctrine
- § 17:2 Effect of pleading and evidence
- § 17:3 Action by employee against employer

B. PARTICULAR APPLICATIONS OF DOCTRINE

- § 17:4 Blasting
- § 17:5 Discharge of fireworks
- § 17:6 Actions against manufacturers or sellers of defective articles
- § 17:7 Actions against manufacturers or sellers of explosive products
- § 17:8 Boilers
- § 17:9 Transportation of explosives
- § 17:10 Garages, repair shops, and service and filling stations
- § 17:11 Miscellaneous applications

CHAPTER 18. FALLING, COLLAPSING OR THROWN OBJECTS

A. IN GENERAL

- § 18:1 Applicability of doctrine
- § 18:2 —In actions by employee against employer
- § 18:3 Effect of pleading or evidence of specific acts of negligence

B. COLLAPSE, FAILURE OR FALLING OF SCAFFOLD

- § 18:4 Applicability of doctrine
- § 18:5 Effect of pleading or evidence of specific acts of negligence
- § 18:6 Joint control over scaffold
- § 18:7 Injury to employee
- § 18:8 Possible negligence of fellow employee
- § 18:9 Possible negligence of employee himself
- § 18:10 Injury to person, other than employee, working on scaffold
- § 18:11 Injury to passers-by

C. FALL OF OBJECT OR SUBSTANCE FROM CEILING OF PLACE OF PUBLIC RESORT

- § 18:12 Generally
- § 18:13 Character of premises
- § 18:14 Control of premises
- § 18:15 Effect of proof of inspection
- § 18:16 Illustrative applications

D. INJURY TO CUSTOMER OR PATRON FROM DEFECT IN OR FALL OF SEAT

- § 18:17 Theaters
- § 18:18 Boxing, wrestling, and other athletic exhibitions
- § 18:19 Stores, shops, or places in which goods are sold or services rendered
- § 18:20 Miscellaneous situations

E. ACTIONS AGAINST OWNER OR OCCUPANT OF BUILDING FOR INJURY FROM OBJECT FALLING OR THROWN FROM BUILDING

- § 18:21 Applicability of doctrine
- § 18:22 Glass falling from window, door or wall
- § 18:23 —Effect of landlord and tenant relationship
- § 18:24 Falling of awning

F. ACTION AGAINST BUILDING AND CONSTRUCTION CONTRACTORS FOR FALL OF OBJECT FROM BUILDING IN PROCESS OF CONSTRUCTION

§ 18:25 Applicability of doctrine

xviii

G. FALL OF BUILDING OR PART THEREOF

§ 18:26 Applicability of doctrine

H. MISCELLANEOUS FALLING, COLLAPSING OR THROWN OBJECTS

§ 18:27 Applicability of doctrine

CHAPTER 19. FIRES

A. IN GENERAL

§ 19:1	Applicability of doctrine
§ 19:2	Unusual fire
§ 19:3	Fire of unknown origin
§ 19:4	Defendant's control
§ 19:5	Superior knowledge of party charged
§ 19:6	Forms of complaints
§ 19:7	Effect of pleading
§ 19:8	Effect of evidence
§ 19:9	Effect of doctrine when applied
§ 19:10	Relationship of parties as affecting application of doctrine
§ 19:11	—Bailor-bailee relationship
§ 19:12	-Employer-employee relationship

B. PARTICULAR APPLICATIONS OF DOCTRINE

- 1. GARAGE, FILLING STATIONS OR REPAIR SHOPS
- § 19:13 Destruction or damage of motor vehicle
- § 19:14 Injury or damage incident to filling gasoline tank
 - 2. HOTEL, BOARDINGHOUSE, OR RESTAURANT
- § 19:15 Applicability of doctrine
 - 3. OIL REFINERY, OIL STORAGE PLANT OR THE LIKE
- § 19:16 Applicability of doctrine

4. WAREHOUSE

- § 19:17 Applicability of doctrine
 - 5. ELECTRIC POWER PLANT
- § 19:18 Applicability of doctrine
 - 6. LANDLORD AND TENANT
- § 19:19 Applicability of doctrine; Landlord as defendant
- § 19:20 —Tenant as defendant

7. OTHER APPLICATIONS

- § 19:21 Doctrine held applicable in fire situation
- § 19:22 Doctrine held inapplicable in fire situation

CHAPTER 20. GARAGES AND SERVICE STATIONS

- § 20:1 Defective repairs to motor vehicle
- § 20:2 Improper use of tools or equipment
- § 20:3 Loss of or damage to motor vehicle
- § 20:4 Form of complaint
- § 20:5 Miscellaneous service station situations

CHAPTER 21. HIGHWAYS, STREETS AND BRIDGES

- § 21:1 Applicability of doctrine against municipality or public authority
- § 21:2 Applicability of doctrine against private persons or corporations

CHAPTER 22. HOSPITALS

A. IN GENERAL

- § 22:1 Practical considerations
- § 22:2 Form of complaint

B. MATTERS AFFECTING APPLICABILITY OF DOCTRINE

§ 22:3 Control of instrumentality

§ 22:4	—Control in hospital
§ 22:5	—Control in others
§ 22:6	Voluntary action of injured person; Unconsciousness
§ 22:7	Unusualness of occurrence in absence of negligence
§ 22:8	Superior knowledge of party charged;
	Unconsciousness
§ 22:9	Number and relationship of defendants
$\frac{3}{2}$ 22:10	Doctrine of charitable immunity
§ 22:11	Pleading
§ 22:12	—Specific negligence
§ 22:13	Evidence
§ 22:14	—Several possible causes of injury
\$ 22:15	—Precise cause established

C. OPERATION OF DOCTRINE

- § 22:16 Generally
- § 22:17 Inference of negligence overcome
- § 22:18 Inference of negligence not overcome

D. PARTICULAR APPLICATIONS OF DOCTRINE

- § 22:19 Burns, doctrine applicable
- § 22:20 —Doctrine inapplicable
- § 22:21 Surgical operations and procedures
- § 22:22 Injections and transfusions
- § 22:23 Childbirth
- § 22:24 Falls or leaps
- § 22:25 Miscellaneous

CHAPTER 23. HOTELS, MOTELS AND RESTAURANTS

- § 23:1 Applicability of doctrine
- § 23:2 Falling objects
- § 23:3 Chairs or seats
- § 23:4 Bathroom or plumbing fixtures
- § 23:5 Miscellaneous applications

CHAPTER 24. MEDICAL MALPRACTICE

A. APPLICABILITY OF DOCTRINE

§ 24:1 Generally

§ 24:2	Observations as to applicability or limitations of doctrine
§ 24:3	View that doctrine is inapplicable
§ 24:3.50	Instructions to jury in medical malpractice case
§ 24:3.70	Forms of jury instructions

B. MATTERS AFFECTING APPLICABILITY OF DOCTRINE

§ 24:4	Generally
§ 24:5	Control over patient or instrumentality
§ 24:6	Effect of presence of multiple defendants or of several possible instrumentalities
§ 24:7	Pleading or proof of specific acts of negligence
§ 24:8	Requirement that consequences of treatment are a matter of common knowledge
§ 24:8.50	Forms—Memoranda regarding applicability of doctrine

C. UNSUCCESSFUL TREATMENT OR ADVERSE RESULT AS BASIS OF ACTION

§ 24:9 Applicability of doctrine

D. SPECIFIC RESULT AS BASIS OF ACTION

$\S 24:10$	Death
§ 24:11	Infection
§ 24:12	Pain or suffering
§ 24:13	Results of treatment of injured limb
§ 24:14	Results of treatment of eyes or ears
$\S 24:15$	Results of nose and throat surgery
§ 24:16	Miscellaneous poor or bad results

E. SPECIFIC ACTS OR OMISSIONS AS BASIS OF ACTION

$\S 24:17$	Generally
§ 24:18	Erroneous diagnosis
§ 24:19	Failure to X-ray
§ 24:20	Choice of wrong method of treatment
$\S 24:21$	Failure to remove foreign objects from body of patient
§ 24:22	—Specific objects
§ 24:23	Injuries to unaffected areas or organs during medical
	care; Generally

xxii

§ 24:24	—"Field of operation" and "remote area" injuries distinguished
§ 24:25	—Effect of unconsciousness of patient at time of injury
§ 24:26	—Injuries outside field of operation or region of treatment
§ 24:27	—Injuries within actual field of surgery or treatment, or caused by activities therein
§ 24:28	—Injuries from administration of anesthetics or drugs
§ 24:29	Breaking of needles or other instruments
§ 24:30	Injuries from use of mechanical devices
§ 24:31	Explosions
§ 24:32	Failure to sterilize instruments or field of operation
§ 24:33	Violation of law; Practice without a license
§ 24:34	Miscellaneous

CHAPTER 25. MOTORBOATS AND SMALL CRAFT

- § 25:1 Explosion
- § 25:2 Carbon monoxide poisoning
- § 25:3 Miscellaneous circumstances

CHAPTER 26. MOTOR VEHICLES

A. IN GENERAL

§ 26:1	Applicability of doctrine
§ 26:2	—Where action is brought against more than one defendant
§ 26:3	Relationship between parties as affecting application of doctrine
§ 26:4	Applicability of doctrine under guest statutes
§ 26:5	Applicability of doctrine to bailments
§ 26:6	Forms of complaints
§ 26:6.50	Forms of jury instructions

B. PARTICULAR APPLICATIONS OF DOCTRINE

1. VEHICLE LEAVES ROAD OR ROADWAY

- § 26:7 Applicability of doctrine
- § 26:8 —Injury to occupants of vehicle
- $\ \, \S \,\, 26:9 \quad \, \, \text{Injuries to pedestrians or damage to property near} \,\,$ roadway

THE NEGLIGENCE CASE: RES IPSA LOQUITUR

	Tim Tildelighter Class Tells Tim Logerica
\$ 26:10 \$ 26:11 \$ 26:12 \$ 26:13 \$ 26:14 \$ 26:15 \$ 26:16 \$ 26:17 \$ 26:18 \$ 26:19	Control of instrumentality Superior knowledge of party charged Pleading as affecting application of doctrine Evidence as affecting application of doctrine Illustrative cases; Generally —Occupant of car —Occupant of truck or jeep —Occupants of miscellaneous vehicles —Pedestrian struck by vehicle —Damage to property near roadway
2.	VEHICLE TURNS OVER ON HIGHWAY
\$ 26:20 \$ 26:21 \$ 26:22 \$ 26:23 \$ 26:24 \$ 26:25 \$ 26:26	Applicability of doctrine —Injury to occupants of vehicle Control of instrumentality Superior knowledge of party charged Pleading as affecting application of doctrine Evidence as affecting application of doctrine Illustrative cases
3.	COLLISION BETWEEN VEHICLES
§ 26:27 § 26:28	Applicability of doctrine Evidence as affecting application of doctrine
4.	COLLISION OF MOVING VEHICLE WITH PARKED OR STANDING VEHICLE
§ 26:29	Applicability of doctrine
5.	SKIDDING VEHICLE
§ 26:30 § 26:31 § 26:32	Applicability of doctrine Illustrative cases; Doctrine held applicable —Doctrine held not applicable
6.	ACCIDENTAL STARTING OF PARKED VEHICLE
§ 26:33 § 26:34 § 26:35	Applicability of doctrine Control of vehicle Pleading as affecting application of doctrine
7.	TIRE BLOWOUT OR FAILURE
§ 26:36	Applicability of doctrine

xxiv

8.	WHEEL BECOMING DETACHED FROM
	VEHICLE

- § 26:37 Applicability of doctrine
- § 26:38 Illustrative cases
 - 9. GUEST FALLING THROUGH DOOR OF MOVING VEHICLE
- § 26:39 Applicability of doctrine
 - 10. OBJECT THROWN FROM SURFACE OF HIGHWAY BY PASSING VEHICLE
- § 26:40 Applicability of doctrine
 - 11. TOWING VEHICLES
- § 26:41 Applicability of doctrine
 - 12. TRANSPORTED OBJECTS FALLING FROM VEHICLE
- § 26:42 Applicability of doctrine
 - 13. INJURY OR DAMAGE RESULTING FROM CONTACT WITH OPEN DOOR OR TAILGATE OF MOTOR VEHICLE
- § 26:43 Applicability of doctrine

14. MISCELLANEOUS CIRCUMSTANCES

- § 26:44 Applicability of doctrine
- § 26:44.30 Brake failure
- § 26:44.50 Airbag failure

CHAPTER 27. PREMISES

- § 27:1 Injuries on premises
- § 27:2 Action against landlord
- § 27:3 Defects in floors or in covering
- § 27:4 Obstacles on floor
- § 27:5 Debris on floor
- § 27:6 Water, oil, mud, snow, etc., on floors
- § 27:7 Waxed, oiled or similarly treated floors

§ 27:8	Objects projecting into aisle or passageway
§ 27:9	-Merchandise or equipment moved into the
	passageway by another customer
§ 27:10	Falling objects
§ 27:11	Stairways, generally
§ 27:12	Debris on stairway
§ 27:13	Doors
§ 27:14	Miscellaneous applications

CHAPTER 28. PRODUCTS LIABILITY

A. IN GENERAL

§ 28:1	Generally
§ 28:2	Breach of warranty
§ 28:3	Forms of complaints
§ 28:3.30	Form of jury instructions
§ 28:3.50	General considerations in products liability case; Control;
	Evidence of specific acts of negligence

B. EXPLODING BOTTLES OR CONTAINERS

§ 28:4	Generally
§ 28:5	Control or intervening force
§ 28:6	Proof of similar accidents
§ 28:7	Injury on premises of bottler or manufacturer
§ 28:8	Actions against manufacturer or seller of bottle or container
§ 28:9	Actions against retailer
§ 28:10	Multiple defendants

C. FOOD AND BEVERAGES

§ 28:11 Applicability of doctrine

D. OTHER APPLICATIONS

§ 28:12	Generally
§ 28:13	Motor vehicles and equipment
§ 28:14	Industrial, business, and farm machines, supplies, and equipment
§ 28:15	Building supplies
§ 28:16	Household and domestic furnishings, appliances, and supplies
§ 28:17	Firearms, explosives, and inflammables

xxvi

- § 28:18 Drugs, medicines and medical equipment
- § 28:19 Miscellaneous products

CHAPTER 29. SHIPS

A. IN GENERAL

- § 29:1 Applicability of doctrine
- § 29:2 Effect of negligence of injured party
- § 29:3 Control of activity or instrumentality causing injury
- § 29:4 Persons to whom doctrine applicable

B. PARTICULAR DEFECTS, OMISSIONS, AND CIRCUMSTANCES

- § 29:5 Generally
- § 29:6 Defective appliances and equipment
- § 29:7 Falls
- § 29:8 Collisions, sinkings, and the like
- § 29:9 Falling or moving objects
- § 29:10 Explosions, fires, steam, and hot water
- § 29:11 Miscellaneous defects or circumstances

CHAPTER 30. TELEPHONES

- § 30:1 Electric shock
- § 30:2 Lightning transmitted on wires
- § 30:3 Fall of pole
- § 30:4 Excessive sound
- § 30:5 Fall of wire

CHAPTER 31. WATER DAMAGE

- § 31:1 Applicability of doctrine
- § 31:2 Seepage or inflow of water from adjacent apartment or building
- § 31:3 Inflow from break in water main or connection
- § 31:4 Flooding from sewers and drains
- § 31:5 Flooding from broken dam
- § 31:6 Flooding as result of management of gates in dam
- § 31:7 Miscellaneous situations
- § 31:8 Effect of pleading or evidence of specific negligence
- § 31:9 Form of complaint

CHAPTER 32. WEAPONS

§ 32:1 Applicability of doctrine

- § 32:2 Hunting accidents
- § 32:3 Target practice accidents
- § 32:4 Discharge of gun of police officer while attempting to make arrest
- § 32:5 Miscellaneous accidents

CHAPTER 33. INJURY BY X-RAY OR HEAT TREATMENT DEVICES

- § 33:1 Generally
- § 33:2 View that doctrine is inapplicable
- § 33:3 —Unusual susceptibility to injury
- § 33:4 View that doctrine is applicable
- § 33:5 —Distinction between injury from treatment and injury from examination
- § 33:6 —Injury to part of body not intentionally exposed
- § 33:7 Application of rules similar to res ipsa loquitur

CHAPTER 33A. MISCELLANEOUS APPLICATIONS AND SITUATIONS

- § 33A:1 Doctrine held inapplicable
- § 33A:2 Doctrine held applicable
- § 33A:3 Injury to child while under supervision of defendant

PART III. APPLICATION OF DOCTRINE IN ACTIONS UNDER FEDERAL STATUTES

CHAPTER 34. RES IPSA LOQUITUR UNDER FEDERAL STATUTES

A. FEDERAL EMPLOYERS' LIABILITY ACT (FELA)

- 1. IN GENERAL
- § 34:1 Applicability of doctrine
- § 34:2 Factors adverse to application
- § 34:3 Construction governed by federal decisions
- § 34:3.50 Form of jury instructions
 - 2. APPLICATION OF DOCTRINE TO PARTICULAR INSTRUMENTALITIES OR CONDITIONS
- § 34:4 Condition of premises

xxviii

§ 34:5	—Elevators
§ 34:6	—Electric wires
§ 34:7	Condition of rails or roadbed; Derailments
§ 34:8	Condition of switch and track control installations
§ 34:9	Condition of engine, tender, or parts thereof
§ 34:10	Condition of railroad cars or parts thereof
§ 34:11	—Coupling devices
§ 34:12	—Brakes
§ 34:13	Condition of various tools, appliances, and machinery
§ 34:14	Ordinary operation of train or parts thereof
§ 34:15	—Sudden starting or stopping
§ 34:16	Switching, shifting, and backing operations
§ 34:17	Use of tools, appliances, or machinery
§ 34:18	Handling of freight
§ 34:19	Miscellaneous

B. JONES ACT

§ 34:20 Applicability of doctrine

C. DEATH ON THE HIGH SEAS ACT

§ 34:21 Applicability of doctrine

D. FEDERAL SAFETY APPLIANCE ACT

§ 34:22 Applicability of doctrine

E. LONGSHOREMEN'S AND HARBOR WORKERS' COMPENSATION ACT

§ 34:23 Applicability of doctrine