

## HIGHLIGHTS - COMPARATIVE NEGLIGENCE MANUAL (2026)

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An Alaska Supreme Court decision holding that when an at-fault plaintiff is awarded damages in a case in which there is an applicable statutory damages cap, the the proper procedure is to first allocate fault before deciding whether the damages cap applies, and if the allocation of fault results in an award below the statutory cap, no further reduction is required. See *Kisling v. Grosz* in § 1:18.

The holding of the Florida Supreme Court that a statutory dram shop action is a negligence action for purposes of the comparative fault statute, and thus the comparative fault statute applies to apportion liability. See *Faircloth v. Main Street Entertainment, Inc.* in § 1:23.

An Illinois appellate decision in a case involving the drowning death of a 4-year-old child in a retention pond located on adjacent property in which the court held that the retention pond was an “open and obvious danger,” and thus the property’s owner had no duty to protect against the drowning. See *Purevdori v. Mission Hills Condominium T-2 Association* in § 1:24.

A decision in which the Texas Supreme Court joined a majority of jurisdictions in adopting the public-safety officer’s rule, often called the Firefighter’s Rule. See *Seward v. Santander* in § 1:34.

A decision of the Nevada Supreme Court holding that a patient’s suicide does not, as a matter of law, preclude liability for medical malpractice arising from the patient’s death. See *Bourne v. Valdes* in § 6:4.