

Proof

1. Actual or constructive notice – need to show D had opportunity to see/fix problem (slip and fall cases)
2. Use of inference – one fact makes another fact more likely
3. Res ipsa loquitor:
 - a. Accident most likely doesn't happen w/out neg
 - b. D is most likely neg party – “exclusive control”
 - c. P not contributorily at fault
 - d. D has better access to info (some courts)
D must negate elements of RIL or show that acted rsbly – jury can reject RIL inference

Maj: P can prove both RIL and specific breach –
minority: P must choose

Presumption state – if D silent, d.v. for P

Inference state – if D silent, jury