

**5.10B FORESEEABILITY (AS AFFECTING NEGLIGENCE)**  
(Approved before 1984; Revised 10/2022)

In determining whether reasonable care has been exercised, you will consider whether the defendant ought to have foreseen, under the attending circumstances, that the natural and probable consequence of the defendant's act or omission to act would have been some injury. It is not necessary that the defendant have anticipated the very occurrence which resulted from the defendant's wrongdoing, but it is sufficient that it was within the realm of foreseeability that some harm might occur thereby. The test is the probable and foreseeable consequences that may reasonably be anticipated from the performance, or the failure to perform, a particular act. If an ordinary person, under similar circumstances and by the use of ordinary care, could have foreseen the result, [*i.e.*, that some injury or damage would probably result] and either would not have acted or, if the person did act, would have taken precaution to avoid the result, then the performance of the act or the failure to take such precautions would constitute negligence.

**Cases:**

*Coleman v. Martinez*, 247 N.J. 319 (2021) (when the risk of harm is posed by third persons, a plaintiff may be required to prove that defendant was in a position to know or have reason to know, from past experience, that there was a likelihood of conduct on the part of the third person that was likely to endanger the safety of another);  
*Lutz v. Westwood Transportation Co.*, 31 N.J. Super. 285 (App. Div.

1954), *certif. denied*, 16 *N.J.* 205 (1954); *Glaser v. Hackensack Water Co.*, 49 *N.J. Super.* 591 (App. Div. 1958); *Martin v. Bengue, Inc.*, 25 *N.J.* 359 (1957); *Menth v. Breeze Corporation*, 4 *N.J.* 428 (1950); *Andreoli v. Natural Gas Co.*, 57 *N.J. Super.* 356 (App. Div. 1959); *Avedisian v. Admiral Realty Corp.*, 63 *N.J. Super.* 129 (App. Div. 1960); 2 *Ohio Jury Instructions, Civil*, 7.12; *see also* instructions in Chapter 7, below as to Proximate Cause.