

PERTINENT LEGAL TERMS

Negligence

Failure to perform an important or necessary technique or performance of said technique in a careless or unskilled manner so as to cause further injury. Consists of the three following elements: Duty to act; Breach of duty, and; Causation of injury.

Gross Negligence

It is materially more want of care than constitutes simple inadvertence. It is an act or omission respecting legal duty of an aggravated character as distinguished from a mere failure to exercise ordinary care. It is very great negligence, or the absence of slight diligence, or the want of even scant care. It amounts to indifference to present legal duty and to utter forgetfulness of legal obligations so far as other persons may be affected. It is a heedless and palpable violation of legal duty respecting the rights of others. The element of culpability which characterizes all negligence is in gross negligence magnified to a high degree as compared with that present in ordinary negligence. Gross negligence is a manifestly smaller amount of watchfulness and circumspection than the circumstances require of a person of ordinary prudence. But it is something less than the willful, wan-ton and reckless conduct which renders a defendant who has injured another liable to the latter even though guilty of contributory negligence, or which renders a defendant in rightful possession of real estate liable to a trespasser whom he has injured. It falls short of being such reckless disregard of probable consequences as is equivalent to a willful and intentional wrong. Ordinary and gross negligence differ in degree of inattention, while both differ in kind from willful and intentional wrong. Ordinary and gross negligence differ in degree of inattention, while both differ in kind from willful and intentional conduct which is thought to be known to have a tendency to injure.

Abandonment

Failure to continue performance of a skill or service following commencement of said service. A form of gross negligence.

Malfeasance

Evil doing; ill conduct. The commission of some act which is positively unlawful; the doing of an act which is wholly wrongful and unlawful; the doing of an act which person ought not to do at all or the unjust performance of some act which the party had no right or which he had contracted not to do. Comprehensive term including any wrongful conduct that affects, interrupts or interferes with the performance of official duties.

Misfeasance

The improper performance of some act which a man may lawfully do.

Nonfeasance

Nonperformance of some act which ought to be performed, omission to perform a required duty at all, or total neglect of duty.

Good Samaritan Laws

A variety of laws protecting those acting without benefit of payment from being successfully sued, providing no Gross Negligence occurred. Good Samaritan Laws do not, however, mean that the person being sued does not have to defend him/herself in court, nor does the Law provide for legal defense.