

5.10C UNDERTAKING VOLUNTARILY ASSUMED

(Approved before 1984)

(1) One who in the absence of a legal obligation to do so voluntarily undertakes to render a service for the protection of the safety of another may become liable to him/her for the failure to perform, or the failure to exercise reasonable care in the performance of that service. His/Her responsibility, however, is only commensurate with the extent of his/her voluntary undertaking and his/her liability does not arise unless it appears from the evidence that his/her negligence had a proximate causal relationship to the occurrence of the mishap, which brought about the injuries.

Cases:

Gudnestad v. Seaboard Coal Dock Co., 27 N.J. Super. 227 (App. Div. 1953); *Wolcott v. N.Y. and L.B.R.R. Co.*, 68 N.J.L. 421 (Sup. Ct. 1902).

**THE FOLLOWING MAY BE ALTERNATIVELY CHARGED
WHERE APPLICABLE:**

(2) Where a defendant has gratuitously undertaken to do an act or to perform a service recognizably necessary to another's bodily safety and there is reasonable reliance thereon, the defendant will be liable for the harm sustained by the other party resulting from defendant's failure to exercise reasonable care to carry out the undertaking.

Cases:

Johnson v. Souza, 71 N.J. Super. 240 (App. Div. 1961); *Restatement of Torts*, Sec. 325, p. 831 (1934); *Miller v. Muscarelle*, 67 N.J. Super. 305 (App. Div. 1961).