

6.10 PROXIMATE CAUSE — GENERAL CHARGE (Approved 05/1998; Revised 11/2019)

NOTE TO JUDGE

The Committee has extensively reviewed the propriety of the prior charges on proximate cause (most of which were prepared before 1984) in light of two significant recent developments. First, recent decisions of the Supreme Court and the Appellate Division question the use of particular language in certain types of negligence cases. *Conklin v. Hannoeh Weisman*, 145 N.J. 395, 417, 419 (1996); *Camp v. Jiffy Lube #114*, 309 N.J. Super. 305 (App. Div. 1998). Those decisions also emphasize that proximate cause should be carefully defined for the jury and tailored to the facts of the particular case. Second, recent research and literature on jurors' comprehension of instructions uniformly indicates that jurors do not understand the technical language in most proximate cause charges. (Some studies even indicate that jurors believe the charge instructs them to find the "approximate cause").

Accordingly, to contribute to the jury's understanding of the causation decision they must make in the most common proximate cause issues, the Committee has prepared the following charges. The Committee would welcome any suggestions from judges and attorneys relating to modifications of these charges for greater clarity or other proximate cause "scenarios" that should be addressed.

This charge was previously titled "Proximate Cause General Charge to be Given in All Cases." In 2019, the title was changed to reflect that that this charge is not applicable to every case. Where appropriate, this charge may be tailored to a case's particular facts.

If you find that [*name of defendant or other party*] was negligent, you must find that [*name of defendant or other party*] negligence was a proximate cause of the accident/incident/event before you can find that [*name of defendant or other*

party] was responsible for [*name of plaintiff or other party*]'s claimed injury/loss/harm. It is the duty of [*name of plaintiff or other party*] to establish, by the preponderance of evidence, that the negligence of [*name of defendant or other party*] was a proximate cause of the accident/incident/event and of the injury/loss/harm allegedly to have resulted from [*name of defendant or other party*] negligence.

The basic question for you to resolve is whether [*name of plaintiff or other party*]'s injury/loss/harm is so connected with the negligent actions or inactions of [*name of defendant or other party*] that you decide it is reasonable, in accordance with the instructions I will now give you, that [*name of defendant or other party*] should be held wholly or partially¹ responsible for the injury/loss/harm.

¹ Omit “wholly or partially” where neither comparative fault (*N.J.S.A. 2A:15-5.1, et seq.*) nor apportionment of causal factors is involved in the case, *e.g., Dafler v. Raymark Industries*, 132 *N.J.* 96 (1992).