**6.14 PROXIMATE CAUSE — WHERE THERE IS CLAIM OF INTERVENING OR SUPERSEDING CAUSE FOR JURY’S CONSIDERATION** (Approved 08/1999; Revised 09/2021)

## Note to Judge

This charge should be given in conjunction with Model Civil Charge 6.12 or 6.13 where there is also a jury question as to whether an intervening or superseding cause brought about the injury or harm.

In this case, *[name of defendant or other party]* claims that the accident/incident/event or plaintiff’s injury/loss/harm was caused by an independent intervening cause and, therefore, that *[name of defendant or other party]* was not a contributing factor to the accident/incident/event or injury/loss/harm.

An intervening cause is the act of an independent agency that destroys the causal connection between the defendant’s *[or other party’s]* negligence and the accident/incident/event or injury/loss/harm. To be an intervening cause, the independent act must be the immediate and sole cause of the accident/incident/event or injury/loss/harm. The intervening cause must be one that so completely supersedes the operation of *[name of defendant or other party]’s* negligence that you find that the intervening event caused the accident/incident/event or injury/loss/harm, without *[name of defendant or other party]’s* negligence contributing to it in any material way.[[1]](#footnote-1) In that case liability will not be established because *[name of defendant or other party]’s* negligence is not a proximate cause of the accident/incident/event or injury/loss/harm.

However, *[name of defendant or other party]* would not be relieved from liability for negligence by the intervention of acts of third persons, if those acts were reasonably foreseeable. By that I mean, that the causal connection between *[name of defendant or other party]’s* negligence and the accident/incident/event or injury/loss/harm is not broken if the intervening cause is one that might, in the natural and ordinary course of things, be anticipated as not entirely improbable.[[2]](#footnote-2) Where the intervention of third parties is reasonably foreseeable, then there still may be a causal connection between the defendant’s *[or other party’s]* negligence and the accident/incident/event or injury/loss/harm. The fact that there were intervening causes that were foreseeable or that were normal incidents of the risk created does not relieve the defendant of liability.[[3]](#footnote-3)

You must determine whether the alleged intervening cause was an intervening cause that destroyed the substantial causal connection between the defendant’s negligent actions (or omissions) and the accident/incident/event or injury/loss/harm. If it did, then *[name of defendant or other party]’s* negligence was not a proximate cause of the accident/incident/event or injury/loss/harm.

1. *Davis v. Brooks,* 280 *N.J. Super.* 406, 412 (App. Div. 1993). [↑](#footnote-ref-1)
2. *Id.* See also *S.H. v. K & H Transp., Inc.*, 465 *N.J. Super.* 201 (App. Div. 2020) (reversing a trial court’s grant of summary judgment in favor of a bus company on the basis that it was not foreseeable that its negligence in failing to drop a mentally disabled teenage girl at her mother’s home as instructed would result in the girl being sexually assaulted).  [↑](#footnote-ref-2)
3. *Rappaport v. Nichols,* 31 *N.J.* 188, 203 (1959); *Cruz-Mendez v. ISU,* 156 *N.J.* 556 (1999). [↑](#footnote-ref-3)