

**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

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contributing to it in any material way.<sup>1</sup> 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.<sup>2</sup> 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.<sup>3</sup>

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<sup>1</sup> *Davis v. Brooks*, 280 N.J. Super. 406, 412 (App. Div. 1993).

<sup>2</sup> *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).

<sup>3</sup> *Rappaport v. Nichols*, 31 N.J. 188, 203 (1959); *Cruz-Mendez v. ISU*, 156 N.J. 556 (1999).

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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.