

What is Legal "Negligence"?

You may have noticed that when a big lawsuit makes the news, the jury in the case is often asked to figure out if one of the parties was “negligent.” But just what does it mean to say someone is negligent, in a legal sense?

The answer is that it means pretty much the same as in everyday conversation --that someone was careless. A basic statement of legal negligence is that a person “did not act as a reasonably prudent person would under the same circumstances.” However, a finding that a person has been legally negligent involves several different elements.

For example, most people would agree that a driver who runs a stop sign and hits a pedestrian was careless, but was he negligent? To find legal negligence, a court must first find that the person “breached” a duty owed to others. In our example, every driver owes a duty to others to be careful when driving a car, and running a stop sign violates this duty.

The negligent act must also cause damage. If the driver broke the pedestrian’s arm, this injury could mean that the driver was negligent. Finally, the damage caused by the negligence must have been “foreseeable.” Because most people would expect that a driver who runs a stop sign might hit someone, chances are a court would find the driver has been legally negligent. New York is a “comparative negligence” state: that is two or more parties can be partly at fault.

In real life, most negligence questions are more complicated than this example and may be even more complicated by the fact that sometimes more than one person was negligent. If you have been injured and you think it was someone else’s fault, give us a call. We will make sure that you get all that you deserve under the law.