

# A Note on the Logical Relationship between Two Different Notions of Negligence

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## **Abstract**

In the law and economics literature the notion of negligence has been conceptualized in two different ways. The mainstream conceptualization defines a party to be negligent if his care level is below a certain specified level called due care level; and nonnegligent otherwise. It is further assumed that the due care levels for the parties are chosen appropriately from the perspective of minimization of total social costs. Another way to define negligence, pioneered by Mark Grady, is in terms of cost-justified untaken precautions. A party is called negligent if there exists a precaution which the party could have taken but did not, and which would have cost less than the reduction in expected harm; and nonnegligent otherwise. This note explores the logical relationship between these two negligence notions. It is shown in the paper that, while the two notions are logically completely independent of each other, under certain plausible conditions, likely to be satisfied in most cases which are litigated, negligence in the sense of shortfall from due care implies negligence as existence of a cost-justified untaken precaution.

Keywords: Negligence as Shortfall from Due Care, Negligence as Existence of a Cost-Justified Untaken Precaution, Efficiency of Liability Rules

JEL Classification: K13

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