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**'But For' Proximate**  
**Cause Cause in Fact**

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## **Overview Elements of Tort of Negligence Martin v Isbard (Novus actus interveniens)**

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## Studies In **Proof of Causation in Tort Law - Proof of Causation in ...**

To demonstrate causation in tort law, the claimant must establish that the loss they have suffered was caused by the

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defendant. In most  
cases a simple  
application of the 'but  
for' test will resolve  
the question of  
causation in tort law.  
le 'but for' the  
defendant's actions,  
would the claimant  
have suffered the  
loss?

## **Causation in tort law**

Eventually the

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Conclusion is made that there are four ways of coping with uncertainty over causation: (1) to reverse the burden of proof; (2) to calibrate the standard of proof for certain cases; (3) to recognize the very creation of the abnormal risk as a compensable damage; and (4) to

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multiply damage  
plaintiff sustained by  
the probability factor  
indicating the  
likelihood of the  
damage being  
actually caused by the  
defendant.

## Comparative Law **Proof of Causation in Tort Cases - CEEOL**

Almost every system  
of tort law subscribes



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to a version of the following rule:

**PROOF OF CAUSATION RULE (PCR):** D cannot be held liable for losses arising from C's injury unless C can prove (to the relevant standard) that D's conduct was a cause of C's injury. But consider the following case (p. 139): Two

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... International  
1 – Factual  
And  
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Law  
Courts usually apply  
the ‘but-for’ test to  
determine whether  
the act of the  
defendant factually  
‘caused’ the

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claimant's loss. If the  
loss would not have  
occurred 'but-for' the  
defendant's actions,  
the Courts will say as  
a matter of fact that  
the defendant caused  
the loss.

**Comparative  
Law  
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Lucid Law**

This idea, Voyiakis  
argues, explains the

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general rule that the burden of proof on causation is on the claimant: this burden can be justified to the claimant because the burden is contingent on the claimant having access to a valuable opportunity: civil recourse (P.35). By contrast, a general rule that the defendant had the

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burden of disproving  
causation would not  
be a burden that is  
contingent upon a  
valuable opportunity  
for defendants:  
generally, defendants  
do not have reason to  
value a ...

## **Justifying Liability without Proof of Causation - Torts**

In very simple terms

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the law on causation requires that the defendant's carelessness must be shown to have caused the loss or damage in question. The finding of a sufficient casual link is an essential ingredient in all forms of tort liability. The English law of torts analyses the question

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of causation in two  
stages  
(Honore:1983).

**The proof of  
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Both factual causation  
and legal causation  
must be proved in  
order to make a claim  
in Negligence. For the  
chain of causation to

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be proved the defendant's breach of duty must have caused or materially contributed to the claimant's injury or loss. However, the chain may be broken by an intervening event.

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Damage: Causation**



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causation underlying  
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England, Germany  
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departures from these  
rules which each  
system has made.

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Causation of an event alone is insufficient to create legal liability. Sometimes causation is one part of a multi-stage test for legal liability. For example, for the defendant to be held liable for the tort of negligence, the defendant must have

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owed the plaintiff a duty of care , breached that duty, by so doing caused damage to the plaintiff, and that damage must not have been too remote.

## **Causation (law) - Wikipedia**

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Factual Causation  
Tort law uses a 'but

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for' test in order to establish a factual link between the conduct of the defendant and the injuries of the claimant. In other words, the question asked is 'but for the defendant's actions, would the harm have occurred?'

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*Page 31/35*

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Causation has two prongs. First, a tort must be the cause in fact of a particular injury, which means that a specific act must actually have resulted in injury to another. In its simplest form, cause in fact is established by evidence that shows that a tortfeasor's act or



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Omission was a  
necessary antecedent  
to the plaintiff's injury.

**Causation legal  
definition of  
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Torts: Burdens of  
Proof, Standards of  
Persuasion, and  
Statistical Evidence  
Steve Gold Toxic  
torts<sup>1</sup> present major

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Proving the cause of  
injuries that remain  
latent for years, are  
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