

SENATOR PIRSCH: Okay.

SENATOR LANDIS: And, by the way, one of the classic cases of assumption of risk, a woman goes to a ball game, sits out on the first base line, foul ball is hit and strikes her. Okay? She says, there's four elements to negligence, all right? There's a duty of care by the owner of the ball park to the patrons, yes, there is. There's a violation of that duty of care, didn't put up any protecting device between me and the ball. Third, the failure to have this protecting device was the cause of injury, that's how come I got hurt. That's right, approximate cause is the third element. And, fourth, there's damages, I broke my arm.

SENATOR PIRSCH: Okay.

SENATOR LANDIS: That's what the plaintiff has to prove, those four things.

SENATOR PIRSCH: Right.

SENATOR LANDIS: The ball park then says, wait a second, people who come to the ball park know that there are foul balls, they know the risk. Kids bring gloves with them to catch the balls, as a matter of fact, it's part of the fun. When you come to the ball game you should know, if you don't know you should know that this is part of the game and prepare yourself. The obligation to say, look, people who come to the ball park know better about foul balls falls on the ball park, the defendant. The plaintiff has to prove duty of care, violation of that duty of care, that the violation of the duty of care was the approximate cause of injury, and that there were damages.

PRESIDENT MOUL: One minute.

SENATOR LANDIS: The defendant then has to prove assumption of risk.

SENATOR PIRSCH: Okay. Right.

SENATOR LANDIS: Right.

SENATOR PIRSCH: That is, that is their defense. To prove that, clear and convincing evidence beyond...