

injuries incurred when a fellow employee on the construction site backed his vehicle into plaintiff. The contractor had failed to provide for flagmen to direct the trucks, which were required to back down a road for approximately a half block. Visibility was limited, and it was difficult to hear the back-up sirens above the construction noise.²⁶ In a final example, an employer was held liable for property damage to a third party from a fire caused by the contractor's failure to take proper precautions while using electric cutting torches to remove pipes.²⁷

Several states do limit the principal's liability under this doctrine to third parties, refusing to permit suit by the contractor's employees.²⁸ These courts reason that the primary duty to protect contractor employees from the "peculiar risks" of their own work is with the immediate employer - the contractor - and not with the principal.

Another theory often used to implicate the principal for the negligence of the contractor is the "statutory" or "regulatory" duty doctrine, described in the Restatement (Second) of Torts, Section 424.²⁹ To break this theory into its most basic components:

- (1) there must be a statute or an administrative regulation which imposes a duty to take certain precautions for the safety of others when doing specified work;
- (2) the contractor must have failed to take the precautions provided for by the statute; and