5.51B PROXIMATE CAUSE IN LEGAL MALPRACTICE INVOLVING INADEQUATE OR INCOMPLETE LEGAL ADVICE (Approved 1/97)

Proximate cause means that the negligence of the *[Defendant]* was a substantial factor in bringing about harm to the *[Plaintiff]*.

To find proximate cause, it is not necessary that the negligence of the defendant be the sole cause of the plaintiff's harm. The law recognizes that in the case of legal malpractice there may be any number of factors that led to the plaintiff's harm. However, in order for the defendant's conduct to be considered a proximate cause of the plaintiff's harm, the negligence of the defendant must have been a substantial factor in bringing about that harm, and in addition some harm must have been foreseeable.[1]

For the harm to be considered foreseeable, it is not necessary that the precise harm that occurred here was foreseeable by the defendant. Rather if some harm from the defendant's negligence was within the realm of reasonable foreseeability, then the harm is considered foreseeable.

In sum, in order to find proximate cause, you must find that the negligence of the defendant in providing inadequate or incomplete legal advice was a substantial factor in bringing about the harm that occurred and that some harm to the plaintiff was foreseeable from the defendant's negligence.

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[1] *Conklin v. Hannoch Weisman,* 145 *N.J.* 395, 418-22 (1996). The trial court should be aware that, in certain factual circumstances, foreseeability might be a "red herring," 145 *N.J.* at 420, and the language regarding foreseeability would be eliminated.