5.10E ACT OF GOD (Approved before 1984)

The defendant contends that the accident was caused by an act of God without any negligence on his/her part and that he/she is thereby exonerated from responsibility for the plaintiff's injuries (or damage).

An act of God is an unusual, extraordinary and unexpected manifestation of the forces of nature, or a misfortune or accident arising from inevitable necessity which cannot be prevented by reasonable human foresight and care. If plaintiff's injuries were caused by such an event without any negligence on the part of the defendant, the defendant is not liable therefor.

However, if the defendant has been guilty of negligence which was an efficient and cooperative cause of the mishap, so that the accident was caused by both the forces of nature and the defendant's negligence, the defendant is not excused from responsibility.

In other words, if the defendant was negligent and his/her negligence contributed as an efficient and cooperating cause to the happening of the mishap and the injuries which proximately resulted therefrom, it is immaterial that an act of God was also a concurring cause.

Cases:

An "act of God" comprehends all misfortune and accidents arising from inevitable necessity which human prudence could not foresee or prevent. *Meyer Bros. Hay & Grain Co. v. National Malting Co*., 124 *N.J.L*. 321 (Sup. Ct. 1940).

An "act of God" is an unusual, extraordinary, sudden and unexpected manifestation of the forces of nature which cannot be prevented by human care, skill or foresight. 38 *Am. Jur*., *Negligence*, *Sec*. 7, 649; *Carlson v. A. & P. Corrugated Box Corp*., 72 *A.2d*. 290, 364 *Penna*. 216 (1950).

The significance of an "act of God" as a defense is that when it is the sole cause of damage, it exempts defendant from liability for negligence. *Meyer Bros. Hay & Grain Co. v. National Malting Co*., 124 *N.J.L*. 321 (Sup. Ct. 1940).

It is the well established principle that where a defendant has been guilty of negligence which is an efficient and cooperating cause of the mishap, the defendant is not exonerated from liability by proof that an "act of God" was a concurring cause. *Cora v. Trowbridge Outdoor Adv. Corp*., 18 *N.J. Super*. 1 (App. Div. 1952).

When there has been a finding of wrongdoing which is an efficient and cooperative cause of the mishap, the wrongdoer is not relieved from liability by proof that an "act of God" was a concurring cause. *Hopler v. Morris Hills Regional District*, 45 *N.J. Super*. 409 (App. Div. 1957). Reducing this principle to the terseness of a maxim, "he whose negligence joins with an 'act of God' in producing injury is liable therefor." 38 *Am. Jur*. *Negligence*. *Sec*. 65, 719; *Cora v. Trowbridge Outdoor Adv. Corp*., *supra*, p. 4.