

CV 3.03C

**Contributory Negligence**

(1) In addition to denying that any negligence of the defendant proximately caused any injury or damage to the plaintiff, the defendant alleges, as a further defense, that some contributory negligence on the part of the plaintiff was a proximate cause of any injuries and consequent damages plaintiff may have sustained. Contributory negligence is fault on the part of a person injured, which cooperates in some degree with the negligence of another, and so helps to bring about the injury.

(2) By the defense of contributory negligence, the defendant in effect alleges that, even though the defendant may have been guilty of some negligent act or omission which was one of the proximate causes, the plaintiff's own failure to use ordinary care under the circumstances for the plaintiff's own safety, at the time and place in question, also contributed one of the proximate causes of any injuries and damages plaintiff may have suffered.

(3) The burden is on a defendant, alleging the defense of contributory negligence, to establish, by a preponderance of the evidence in the case, the claim that the plaintiff was also at fault, and that such fault contributed one of the proximate causes of any injuries and consequent damages the plaintiff may have sustained.