C. There is often more than one cause-in-fact and more than one proximate cause of an injury, so don't say that "A did not cause plaintiff's injury because B caused it." Maybe they both caused it.

D. **CAUSATION-IN-FACT**

1. The most common way to establish causation-in-fact is to show that ____ ____ defendant's negligence (i.e., duty and breach), the damages at issue would not have occurred. Defendant's contrary argument will be that there is no causation-in-fact because even if he had not been negligent, the damages still would have occurred.

2. For intentional torts, the same but-for analysis applies—plaintiff shows that but for defendant's _____ tortious act, the result at issue (e.g., for battery, a harmful or offensive touching) would not have occurred.

3. In addition to this "but-for cause," defendant's role must be more than mere _____; the negligence must be something that in the abstract makes injuries like this more probable.

   Example: Defendant is driving too fast and is therefore in the wrong place at the wrong time. His passenger is struck by a falling boulder. If he had been going the speed limit, the car would not have been hit, so his negligent speeding is a but for cause of his passenger's injury. However, this is just a coincidence—had he been going even faster the car would not have been hit either—and does not establish causation-in-fact.

4. When dealing with statistical evidence instead of direct evidence, plaintiff must at least show that the _____ of the harm that occurred was more than twice as high with defendant's negligence than it would have been without it. Mathematically, at least this much is required to establish causation-in-fact by a _____ of the evidence.

5. **Tricky cases** in causation

   a. Two _____ **causes that collectively cause an injury** might both represent causation-in-fact, because each is a but-for cause.

      Example: Two cars driven by negligent drivers crash into each other. If Driver A had not been negligent the accident would not have occurred; if Driver B had not been negligent the accident would not have occurred. Each driver is a cause-in-fact of all of the injuries (simple but-for cause), even though each can blame the other too.

   b. Two causes that are **not but-for causes because they _____ each other out** might both represent causation-in-fact.

      i. The classic example is two fires that _____ and burn down

SAMPLE PAGE: Interactive Torts, Outline with Blanks

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