

Negligence Case – Applicable Legal Essay

By Kendra Poole

SUMMARY OF THE FACTS

Amy Smith, sophomore at City High School, participated in a drivers' education course instructed by Coach Smith. The class was not mandatory under Metro School District regulations and was conducted through Coach Smith's independent business, Great Drivers R Us. Coach Smith informed the class that, at the end of the semester, their grade would be determined by a driving test, "after they [had] had lots of time to practice with their parents." He told them the test would demand their mastery of various skills, including driving on Main Street, one of the busiest streets in the city.

When the date of the scheduled test arrived, Amy told Coach Smith that she was not prepared to drive on Main Street, as her parent's demanding work schedules had not allowed her enough practice time. Coach Smith replied that if Amy did not drive on Main Street, she would receive a zero on that portion of the exam. In an attempt to avoid a bad grade, Amy proceeded to Main Street.

On Main Street Amy veered off the road into a ditch, flipping the vehicle twice. As the seatbelt did not function properly, Amy was thrown from the car and suffered severe injuries, including damage to her mental functions. Coach Smith suffered injuries as well, breaking his arm and leg.

Amy's family intends to sue Metro School District on the grounds that Coach Smith negligently forced Amy to drive on Main Street unprepared. Furthermore, they want to sue Great Drivers R Us and Coach Smith.

LEGAL ARGUMENT

1. *The evidence will prove Coach Smith was negligent in permitting Amy to drive on Main Street unprepared.*

As Amy is a minor, her negligent behavior “is not necessarily held to the same standard of conduct as an adult,” as stated in negligence statute 13-1605. The degree of care with which she was entreated to conduct herself differs from the “ordinary care” anticipated of an adult, and therefore her age reduces her level of liability and assumption of risk. Under statute 13-1601, a “reasonably prudent person” must assume “an unreasonable risk of injury to [herself] or to another.” As a minor, Amy cannot legally be categorized as a “reasonably prudent person.”

Amy exercised ordinary care in informing Coach Smith of her lack of preparation and experience, relating to him the risk he was asking she take. Furthermore, the vehicle in which the test was conducted belonged to Coach Smith personally and for which he is liable. Coach Smith, as a reasonable adult, had the responsibility to foresee the assumption of risk and, as declared in statute 13-1604, “exercise ordinary care for the safety of the person and property of others” and “for the person’s own safety and the safety of [his] property.”

In respect to recovering damages, Coach Smith is also liable. The seatbelt malfunction which caused Amy to be thrust from the vehicle, ensuing most of her injuries, was a safety hazard foreseen by Coach Smith. He was aware that the

seatbelt did not work correctly, and failed to notify Amy. Failing to act responsibly was the proximate cause of Amy's serious medical conditions. Not only did Coach Smith allow Amy to attempt a driving task for which she was unprepared, he allowed her to do so knowing the seatbelt was unsafe. His actions prove negligent under statute 13-1603, which states, "As the risk of danger that should be reasonably foreseen increases, the amount of care required also increases."

2. The evidence will prove Amy Smith negligent in her decision to drive on Main Street unprepared.

Amy's liability is shown initially when her mother, her legal guardian, completed the proper paperwork and signed a release, permitting her to enroll in the course, receive a legal permit, and complete all tasks outlined in the course. At the beginning of the semester, Coach Smith told the students exactly what was to be expected of them in their final driving test, entrusting to them the responsibility to practice with their parents. As Amy did not practice as much as necessary, she was negligent in failing to act, "in order to prevent injury to herself," (statute 13-1603). Failing to practice and prepare was the proximate cause of her accident and injuries.

Furthermore, Amy expressed her assumption of risk promptly before entering Main Street and continued her actions despite recognizing the immediate danger. The risk of danger increased upon her notifying Coach Smith of her

reluctance and, therefore, the “amount of care,” (statute 13-1603) due also increased.

Although Amy is classified as a minor, statute 13-1605 determines that the plaintiff still owes a “degree of care which a reasonably careful minor of the age, mental capacity and experience...would use.” If Amy had practiced her driving as instructed, she would have had the “mental capacity and experience” to execute her assumed degree of care.

3. *Assuming Coach Smith was negligent, the following parties can be held liable:*

a. *Metro School District can be held liable for Amy's injuries and damages.*

Coach Smith acted negligently while performing his scope of duties as a public employee, implying that his actions are the responsibility of the school district he represented. Under the Tort Claims Act, a public employee is performing his “scope of duties” if “performing any duties that a public employee is requested, required, or authorized to perform by the governmental entity.” Although Good Drivers R Us is a privately owned business, it was advertised and managed through the Metro School District. A link to the business was featured on the City High School webpage, indicating that it was endorsed and approved by the Metro School District. Statute 66-7-506 NMSA 1978 discusses the legal cooperation necessary of the State Transportation Department and the State Public Education Department in developing curriculum and licensing instructors. This conjunction assumes partial negligence on the part of the School District, as

Coach Smith's license was obtained from them and his curriculum and class proceedings approved and permitted by them.

Section 41-4-5 NMSA 1978 defines an individual's right "to sue a governmental entity for bodily injuries...caused by the negligence of public employees while acting within the scope their duties in the operation or maintenance of any motor vehicle." As the school district did not responsibly monitor the condition of the motor vehicle (the safety of Amy's seatbelt), they are liable for its malfunction.

b. The limited liability company Great Drivers R Us can be held liable for Amy's injuries and damages.

Great Drivers R Us can initiate a separate suit because the car in which Amy's test was administered was not properly insured, as required under Section 66-10-3 NMSA 1978. Because the car was personally owned by Coach Smith, Great Drivers R Us violated the law concerning "insurance for all vehicles used for behind-the-wheel instruction." If properly insured, Amy's damages would be recovered through insurance.

c. Coach Smith is personally liable for Amy's injuries and damages.

Though Section 41-4-4 NMSA 1978 grants immunity to "any public employee while acting within the scope of his duties," that immunity is relinquished under the exception in Section 41-4-5. This statute indicates that the individual, as well as the governmental entity in which he is an employee, can be held liable for bodily injuries "in the operation or maintenance of any motor

vehicle.” As Coach Smith withheld the information concerning the faulty seatbelt, he was acting negligently concerning the “maintenance of any motor vehicle.”

Coach Smith is subsequently held liable due to his position “as a manager of a limited liability company,” (53-19-13 NMSA 1978). The law asserts that an individual is liable “for the consequences of his own acts or omissions for which he otherwise may be liable” even as an employee of a business, as a public representative of a governmental entity, or, as is case specific, both.