

NEGLIGENCE CLAIM ANALYSIS

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Negligence Claim Analysis

Elphaba and Glinda were cycling on a rural road when a vehicle operated by Professor Morrible perilously overtook a truck, compelling Elphaba to veer her bicycle to avert a collision. In evading the crash, she sustained a significant head injury, necessitating immediate medical intervention. At first, she was reluctant to seek medical attention, believing the situation did not warrant such, but later agreed when the lorry driver insisted on it. At the hospital, she was made to wait unreasonably long to be attended to. Her patience ran out at this facility, and she decided to leave, believing this was the best strategy. A few hours later, Elphaba was found unconscious at home, leading to an emergency surgery and subsequent complications. The entire situation traumatized her sister Nessarose and friend Glinda, both struggling with panic attacks and insomnia.

This essay will rely on several legal principles and cases to determine if the three (Elphaba, Glinda, and Nessarose) can get a legal remedy for what happened to them. Two legal cases (*Palsgraf v. Long Island Railroad Co.* (1928) and *Helling v. Carey* (1974)) are reference points for understanding what courts have ruled on duty of care and medical negligence. These two increase understanding of whether Elphaba has a winnable case. For Glinda and Nessarose, two cases (*Dillon v. Legg* (1968) and *Thing v. La Chusa* (1989)) will be examined. These cases will establish if strong claims can be presented and what monetary compensation is necessary.

Claim Against Professor Morrible

Duty of care is owed to all road users, including cyclists and roadside passengers. This legal requirement means that road users should refrain from actions that could harm others. Drivers are expected to be professional and cautious, as lacking these traits could harm vulnerable users. When a driver notices cyclists, whether in front or at their back, the logical

response should be to slow down or ensure they do not drive in a way that threatens their life.

Professor Morrible had a duty of care in this instance. He should not have overtaken the lorry in a fashion that forced the cyclists to endanger their lives. The accident would not have happened without the reckless driving. The *Palsgraf v. Long Island Railroad Co.* (1928) case helps to understand the duty of care, including its scope (Feldman and Doherty, 2024, p. 1615). It highlights the need for road users to avoid movements that harm other road users.

Professor Morrible breached his duty by recklessly overtaking the lorry, forcing Elphaba to take a quick swerve, which led to her brain injury. The professor was evidently on the wrong side of the road while overtaking the lorry. This action could have resulted in a car accident if another car was coming from the opposite direction. This type of driving meets the legal definition of recklessness because it breaches the law established to ensure road safety for all users. As seen in the *Williams v. Hays* (1948) case, no driver is exempted from road safety laws, not even new drivers (*Williams v. Hays*, 1894). The professor created a preventable situation.

Causation must be established to prove that a breach of duty resulted in the injuries. The “but for” test can be applied to this case to determine factual causation. It will assist in proving if the injury could have happened without the dangerous overtaking. The *Guzman v. Jones* (1997) case is essential when examining how to apply this test to the present case (*Guzman v. State*, 1997). The case reinforces the need to prove that a particular action resulted in another. Legal causation also applies to this case. In legal causation, the focus is on whether what happened could have been the expected outcome. In this case, the accident seems to be a foreseeable outcome for the dangerous driving.

The accident resulted in a severe head injury for Elphaba, forcing her to undergo surgery, and she later became diagnosed with a stroke. Ongoing stiffness in her right arm, which has

limited her ability to do her routine tasks, is one example of the physical consequences of the accident. Several damages apply to Elphaba: medical costs, pain and suffering, and loss of income. The hospital might also be required to share some responsibility because the available medical evidence shows that she would not have been diagnosed with a stroke had the hospital acted quicker. The extent of damages she receives will be determined by the strength of the case and the evidence submitted.

An argument likely presented by Professor Morrible is that the injury should not be viewed strictly from a reckless driving perspective. He may submit that Elphaba would not have suffered a head injury if she had a helmet. The contributory negligence principle might be invoked to show that the plaintiff did not act reasonably to protect themselves. The professor might reference the *McIntyre v. Balentine* (1992) case to demonstrate that there is a legal precedent for his argument (*McIntyre v. Balentine*, 1992). Compensation can be reduced if it is determined that necessary actions were neglected to protect the plaintiff. Still, the professor cannot deny that they were somehow responsible due to their reckless driving. The court will examine the evidence submitted by both sides.

Claim Against the Hospital

The hospital owed Elphaba a clear duty of care, as established in *Helling v. Carey* (1974). This case explicates what duty of care entails in hospitals and what constitutes its violation. The case reinforces the need for hospitals to follow acceptable standards when examining medical cases (*Helling v. Carey*, 1974). The hospital had a policy requiring patients with head injuries to be seen in less than one hour. This policy was not followed, forcing the patient to leave the hospital. Her condition worsened because the hospital failed to follow the policy, meaning that this failure can be connected to her recent diagnosis.

Causation is evident, as the available evidence shows that the stroke was preventable if the hospital had attended to the patient much quicker. Factual causation can be applied to this case to establish if a link exists between the action (hospital delay) and the stroke. The *Summers v. Tice* (1948) case helps to understand whether factual causation can be used (*Summers v. Tice*, 1948). In that case, it was demonstrated that the patient suffered due to inaction by the hospital. The same can be seen here, as the hospital delayed a treatment that would have prevented a stroke diagnosis. Legal causation also applies here as this case involves determining whether what happened was foreseeable.

An argument likely to be presented by the hospital is that the patient chose to depart before a specialist could attend to her. By leaving, she took a risk that was likely to harm her. This argument is weak because the patient (Elphaba) had a head injury, which most likely impacted her thinking and judgment, resulting in her making an irrational decision. The hospital is liable for failing to prioritize the case despite knowing the dangers of such cases. The hospital must have known that head injuries are not typical cases as they can result in irreversible outcomes in a short period. The policy of a one-hour wait was violated because the patient was made to wait for more than one hour. These reasons provide a strong basis for a negligence claim.

Claim for Psychiatric Injury as a Secondary Victim (Glinda)

The law makes it very difficult for psychiatric injury claims as a secondary victim to succeed. The limits on these claims ensure that not everyone can file the claim. The *Thing v. La Chusa* (1989) case outlines the specific requirements for these claims (*Thing v. La Chusa*, 1989). Glinda must demonstrate that the defendant owed them a duty of care and that it was reasonable to expect that the incident would emotionally hurt her. The courts must establish if a duty of care

applies to Glinda. This determination involves reviewing the relationship between the two and establishing if she can make the claim. Glinda must prove she meets all these requirements to win the psychiatric injury claim.

The reckless driving was the root cause of the severe injuries Elphaba has been forced to live with. As an immediate eyewitness, Glinda saw everything as it unfolded. She saw the professor dangerously overtaking the lorry and the subsequent response by Elphaba, which led to her head injury. The experience of seeing her friend being thrown off the bike and getting injured resulted in a traumatic experience. Suppose it can be demonstrated that there is a connection between the reckless driving and the emotional harm experienced by Glinda. In that case, she might claim that the professor was unconcerned with safe driving. Glinda must prove that dangerous driving could hurt anyone, not just Elphaba.

Causation involves showing that a connection exists between two events. In this case, it requires Glinda to demonstrate that her psychiatric harm is the direct result of the accident. Courts will examine how close she was to the incident (proximity) in time and place. This determination will prompt the courts to establish whether she was near when it happened and whether she saw it happen right away. Glinda meets the proximity requirements because she was with Elphaba when the accident occurred and witnessed her roll over when she attempted to swerve her bike.

Claim for Psychiatric Injury as a Secondary Victim (Nessarose)

The courts will apply the same legal principles as they did in the first case (Glinda) when reviewing Nessarose's claim for psychiatric injury. Nessarose has a stronger case than Glinda because she is Elphaba's sister. It is generally easier for family members to win such cases as it is reasonable for them to be harmed. In the *Portee v. Jaffee* (1980) case, the court stressed the

importance of a close tie of love and affection, making it more likely that courts would recognize Nessarose's feelings (*Portee v. Jaffee*, 1980).

Unquestionably, Nessarose was not there when her sister was in the hospital. However, she later found her sister unresponsive at home, prompting her to seek emergency medical aid for her. Finding her sister in such a state was unusual for her, leading to a traumatic experience. The law recognizes that such a situation can cause psychological harm. Since the hospital never offered the necessary care in time, this inaction (breach of duty) contributed to Nessarose's psychiatric injury.

Causation must be established in this case by showing that her (Nessarose) emotional pain was the direct result of what happened to her sister. Proximity in time and space will be applied here to determine the claim's merits. It is undeniable that Nessarose was not at the accident, but she was the first person to find her in a life-threatening state. In the *Dillon v. Legg* (1968) case, the court extended claims to those who arrived shortly after an accident, meaning they did not have to witness it (*Dillon v. Legg*, 1968). Her response to the unresponsive state could be considered a byproduct of experiencing a traumatic event. The experience is likely to be deemed psychological harm due to the rarity of the situation encountered.

Conclusion

The essay examines the potential legal claims arising from Elphaba's accident. It focuses on four parties. The first two parties (Professor Morrible and the hospital) are the defendants, while the other three (Elphaba, Glinda, and Nessarose) are the plaintiffs. The essay relied on four key elements to establish that negligence occurred: duty of care, breach, causation, and damage. The accident was preventable if Professor Morrible had driven carefully. The hospital could also have prevented the stroke by treating Elphaba on time. Elphaba has strong legal claims against

the two parties, although she should expect them to challenge these claims. While Glinda and Nessarose have claims to make, theirs is not straightforward because the burden of proof is high. Proving emotional pains in this case will be difficult, especially for Glinda, because she is not a relative.

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