

# Comparative negligence and coa

Law



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Comparative Negligence and COA Introduction Under the Californian law on negligence there are numerous causes of action that must be taken into consideration before sustaining an action in negligence. These include: a legal obligation to take due care, a violation of that duty, a considerable near link between the infringement and the petitioner's consequential harm and the real damage or loss to the petitioner. This has the implication that everyone is accountable not only for the outcome of their intentional actions but also for the resultant harm inflicted on another person by their desire to exercise their skills in the administration of the property except where the other person willfully inflicted harm on himself or herself.

#### Duty of Care

The Management of European health SPA must be fully informed that they have a duty of care which provides that adequate action must be taken to avoid harm to its members or other people within their property. Policy aspects must be balanced in establishing the extent of their duty of care to patients and other stakeholders. Core components of sustaining an action in negligence include: the prediction of injury to the petitioner in which case it should be clearly identifiable the defendant's action or inaction projected a sufficient level of certainty that the petitioner would suffer harm. Secondly, there should be a proximate cause between the the defendant's actions or inaction and the injury or damage suffered by the plaintiff. In this case Rhoda has a right to claim damages given the fact that she is a member of the European Health SPA and the organization is to be morally blamed for not foreseeing and preventing the harm on her.

The European Health SPA has a great burden and consequences for their actions of imposing duty and liability to the members as in Valdez v. J. D.

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Deffenbaugh Co., 51 Cal. App. 3d 494, 124 Cal. Rptr. 467 (1975). In this scenario the test of careless negligence is objective as opposed to being subjective. Rhoda who is the plaintiff must be fully aware that liability on the part of the defendant is incurred in tort when the party at the time of the act of negligence must have considerably foreseen the act that could lead into injury of another. According to Rhoda's testimony it occurs that the floor had been slippery on all the 25 occasions she used the facilities, but the defendant had failed to exercise duty of care by warning its members or other users of the impending danger of a slippery floor. As a result of this negligence, Rhoda suffered physical injury, which entitles her to compensatory damages.

Rhoda's injury would have been avoided if the management of European Health SPA had taken the necessary steps to warn users such as Rhoda of the slippery floor. This makes them liable for the injury suffered by Rhoda. This can be analyzed from the case of Bush v. Parents Without Partners, 17 Cal. App. 4th 322, 329, 21 Cal. Rptr. 2d 178 (1993), in which the proprietors and operators of a dance hall breached their duty of care to a dancer when they accelerated the peril of having a fall by addition of a slippery chemical to the floor where the dancers performed. The court found the proprietors liable for negligence and compelled them to compensate the dancer for the damages suffered. Before determining a breach for duty of care, a judge must be satisfied that the resulting harm was foreseeable and that a proper action would avoid its occurrence. The harm would have been prevented if the defendant would have taken adequate caution to prevent it. Rhoda is entitled to compensation for the loss suffered as it was clearly foreseeable that the slippery floor was posing a potential injury unsuspecting users.

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Work cited

Bush v. Parents without Partners, 17 Cal. App. 4th 322, 329, 21 Cal. Rptr. 2d 178 (1993)

Valdez v. J. D. Deffenbaugh Co., 51 Cal. App. 3d 494, 124 Cal. Rptr. 467 (1975)