

Kinds of evidence – to establish a negligent act

Law, Common Law



DQ1: Please describe the kinds of evidence that a plaintiff can present in order to establish a negligent act. In a negligence suit, the plaintiff has the burden of proving that the defendant did not act as a reasonable person would have acted under the circumstances. The court will instruct the jury as to the standard of conduct required of the defendant. For example, a defendant sued for negligent driving is judged according to how a reasonable person would have driven in the same circumstances.

A plaintiff has a variety of means of proving that a defendant did not act as the hypothetical reasonable person would have acted. The plaintiff can show that the defendant violated a statute designed to protect against the type of injury that occurred to the plaintiff. Also, a plaintiff might introduce expert witnesses, evidence of a customary practice, or circumstantial evidence.

DQ2. Research one court case addressing HealthCare Law that corresponds to the material in this seminar's reading and write a 1-2 paragraph summary of the case.

Please be sure to include the case name in your reference listing and the source of your information. The case that I chose to write on came from our textbook, but I did some additional research online and found more information on this particular case. The case involves a mother and father who filed a wrongful death suit against their OB/GYN's for the wrongful death of their unborn son. Initially, the court found in favor of the physicians, but after an appeal process to the U. S. Supreme Court of Appeals, they were granted a judgment in their favor. Tara Reese went to the Fort Worth Osteopathic Medical Center emergency room in her seventh month of pregnancy, complaining of a racing pulse and dizziness. Doctors determined

that she had a high pulse rate and high blood pressure and sent her to the labor and delivery room for further observation. On multiple occasions through the course of the evening, doctors monitored the heart tones of the fetus, which were often difficult to detect. The following morning the doctors confirmed that the fetus would be stillborn.

Tara and her husband, Donnie Reese, brought suit against Fort Worth Osteopathic Hospital, Osteopathic Family Medicine Clinics, Craig Smith, D. O. , Roberta Beals, D. O. , Reid Culton, D. O. , and John Chapman, D. O. (health care providers), for negligence, gross negligence, and vicarious liability, seeking damages under the wrongful death and survival statutes and for personal injuries to Tara Reese. The trial court granted summary judgment in favor of all health care providers. The Reeses appealed all claims except that against Dr.

Chapman. The court of appeals affirmed the summary judgment disposing of Donnie Reeses individual bystander claim, but reversed the remainder of the summary judgment, remanding the case to the trial court. The health care providers petitioned this Court for review, arguing that the court of appeals incorrectly held that the Reeses could assert wrongful death and survival actions and that Tara Reese could assert her own individual claim. Donnie Reese did not appeal the adverse judgment against his individual claim. (Phillips, 2003) Essentially, this case has a lot of grey area that borders on the hot topic of abortion and whether a fetus is considered alive and entitled to all the rights before it is born. Another issue I found with this case is that you are going to find the same types of cases across the U. S. with different outcomes depending on the state in which the trial was held. References

<https://assignbuster.com/kinds-of-evidence-to-establish-a-negligent-act/>

Phillips, T. U. S. Supreme Court of Appeals, the Second District of Texas. (2003). Reese v. fort worth osteopathic hospital inc. (02-1061). Retrieved from THE SUPREME COURT OF TEXAS website: <http://www.supreme.courts.state.tx.us/historical>