

Civil action movie tort analysis

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Background A Civil Action entails a major class action suit brought forth by several families against major conglomerates (including W. R. Grace chemical company and Beatrice Foods) that were alleged to have negligently damaged the environment of a small town to the extent that its practices led to the spread of leukemia. Jan, a personal injury attorney, decides to represent a woman that claims that her child and other neighbors of a small town in Massachusetts have been diagnosed with leukemia.

The lawyer finds evidence that there were some factors that could have led to the contamination of the town's water supply by the conglomerates' factory.

In the course of the lawsuit Jan gets other attorneys in his Boston law firm to assist him. Jan spends lavishly for experts, but the length of the discovery process and opposing counsels' maneuvers stretch all his assets to the limit. Jan concentrates his efforts against the parent company (Grace) since they had personal testimony of a former employee of Grace who had witnessed dumping.

The case against Beatrice Foods was dismissed and would then lead the firm to accept settlement from Grace for \$8 million. Jan later files for bankruptcy, and the firm is dismantled. Jan then submits the case to the EPA after it concludes, in a report, that both companies had contaminated the wells from sludge removed from the site.

Ultimately, due to the lawsuits brought forward by the EPA, Grace and Beatrice Foods are eventually forced to pay for one of the largest chemical clean ups in the history of the United States which cost about \$64 million.

Brief Analysis for Cause-in-Fact The issue that arises in this plot is whether the conglomerates are negligent for the contamination of the water supplies of the town, and if their negligence contributed to the injuries (leukemia) of the multiple plaintiffs. After finding that there has been a breach of duty, one must consider if the defendant's conduct was the cause-in-fact of the injuries.

An actor's conduct is the cause-in-fact of someone's injury where if we can say that "but for" the actor's conduct the injury would not have occurred. In other words, the dominant "but for" test asks: "if we could go back in time and remove the actor's conduct, would that have prevented the injury?" In *Hill v. Edmonds*, the court found that where two causes of negligence combine to produce a single injury, each individual is liable for the entire result even though its act alone may not have caused the result.

In that case, the conduct of the truck driver was a "but for" cause of Hill's injuries. If Bragoli (D) would not have left his truck in the middle of the road, Edmonds (D) probably would not have hit the truck. The minority test was molded in the *Anderson* case, where it was held that where several causes concur to bring about an injury and any one alone would have been sufficient to cause the injury, it is sufficient if D's conduct was a "substantial factor." The court in that case concluded that it would be unfair to deny the plaintiff liability, simply because the plaintiff cannot show that "but for" the negligent conduct of one defendant, the injury to the plaintiff would not have resulted. In this instant case, the conglomerates were likely negligent since they failed to provide a duty of reasonable care in managing the factory in

the town, causing detrimental damage to the environment and the town's water supply.

The question of whether the conglomerates were liable to the families lies on the causation of the leukemia, and whether it can be shown that the water supply contamination was a direct cause-in-fact of the leukemia.

Jan was unable to promptly show this causal connection, and his cases against the other two entities involved were dismissed before settling with Grace. It was difficult for Jan to pinpoint the conglomerate's negligence as a cause-in-fact for the plaintiffs' leukemia.

In fact, in the deposition the defendant's council articulated that there may have been a wide range of other reasons for the plaintiffs' cases of leukemia. Everything from family history, food consumption and lifestyles were addressed as possible alternatives. The major difficulty in Jan's case against the conglomerates lies on causation.

The water contamination may have been caused by all the entities involved in the factory near the town's river. First, it must be shown that the dumped chemicals, especially the industrial TCE, had gotten into the wells.

In Anderson, the court reasoned that if a fire set by the Railway's (D) negligence unites with a fire of an independent origin, there is joint and several liability, even though either fire would have independently destroyed the property. Likewise, even if the wells could have been contaminated by either defendant, the Anderson test will provide that where a plaintiff is injured by the negligent conduct of more than one tortfeasor, each is

independently liable if they are each a substantial factor in bringing about the plaintiff's injury.

Grace and Beatrice Foods were both substantial factors to the water contamination.

Their negligent management of the factory was evident by the former employee's testimony that they had dumped materials onto the river. Hence, Grace and the others' negligence could have all contributed to the ensuing injuries. The problem here lies in whether the water contamination was the cause-in-fact of the leukemia and second, if it had, whether the pollutants killed the leukemia patients.

As shown in the movie, the EPA would ultimately prevail in forcing the conglomerates to pay for damages. It may be assumed then that further expert testimony and findings uncovered that the water contamination was indeed a cause-in-fact of the leukemia. If, however, it were not for the EPA's extensive resources, Grace and Beatrice Foods may have been able to escape liability on the lack of evidence showing that the water contamination was the cause-in-fact of the widespread leukemia.