

Business law- flip-
flop case,
representative of mr.
mcduff againts jipsy



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The paper "Flip- Flop Case, McDuff against Gypsy" is a dramatic example of a case study on the law. I represent Mr. McDuff, the plaintiff in this case and will be providing my submissions in accordance therein. The brief facts of the case are that the plaintiff was involved in an accident with the respondent, Gypsy, which was based upon the negligence as she wore flip-flops while driving. As a result of the accident, the plaintiff has suffered spinal cord injury resulting in his becoming a quadriplegic.

The law on negligence has been defined as "conduct which falls below the standard established by law for the protection of others against unreasonable risk of harm." Therefore what needs to be established is the fact that the conduct of the respondent fell below the standard that was required of her and as a result of that failure there was an unreasonable risk of harm, in fact, the harm occurred. The four elements of negligence that are required are that of duty of care, breach of that duty, actual cause, proximate cause and damage and these would be proved. As stated in *Fern A. Fogel vs. getting ' N Go Markets, Inc.* these must be proved so as to establish a plausible case of negligence.

The courts, in this case, looked into the establishment of a duty of care and stated that when imposing a duty, the relationship between the parties, the reasonable foreseeability of harm to the persons injured and public policy concerns would be taken into account and if any one of them would be found, the duty would be established.

Even though Jipsy had no relationship of the contract with Mr. McDuff, this as has been seen in the judgment is not the only relationship that can establish duty. The fact that both of them were driving was present which created a duty of care which would drive safe and not to cause harm to other drivers.
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The second way of reasonable foreseeability of harm to the plaintiff is more than evident because clearly the acts and conduct of the respondent were foreseeable to result in harm being caused to the plaintiff. As far as public policy is concerned, clearly it would be against public policy if such a duty of reasonable care to other drivers is not presumed.

Now the next step of breach of duty has been determined by courts by taking into account the probability of the accident occurring, the magnitude or gravity of the injury suffered by the plaintiff if an accident occurs; and the burden placed on the defendant to take adequate precautions to avert the accident. As for the probability of the accident occurring it is respectfully stated that the magazine article attached as Appendix D has contended that the use of flip-flops makes it awkward for the wearer to work effectively with his/her feet. A list of accidents which have resulted due to such acts has been pointed. More importantly, it has been stated by safety experts of the automobile that if loose-fitting footwear is worn while driving it would be a cause of danger because of the fact that it would get stuck under the brake, clutch or accelerator and can result in an accident which is clearly what happened in the current situation. Indeed it has been pointed out earlier that flip-flops are of loose-fitting and are thus prone to hazards. These were confirmed by Easwich Union where it was stated that three-quarter of motorists had difficulty in driving when they wore flip-flops. Therefore it is proved that the probability of an accident occurring due to the wearing of flip-flops is very high.

The magnitude of injury which can be caused due to the breach of duty is taken into account. It is evident in the article that the wearing of flip-flops is a cause of the fatal accident. Furthermore, motorists and the accidents that <https://assignbuster.com/business-law-flip-flop-case-representative-of-mr-mcduff-against-jipsy/>

are likely to occur would be of severe nature as happened in the current scenario and therefore this aspect of the breach has been proved.

As far as adequacy of precautions is concerned Jipsy, the respondent did not wear proper shoes and wore flip-flops which, as proved before are hazardous and can cause a fatal accident. Thus statistics, surveys, as well as accidents, clearly point out that the respondent did not follow the adequate precaution. There would be no issue in proving the actual and proximate cause as the respondent's act caused the injury and damages in this respect should be paid. Unless I can be of any further assistance these are my submissions.