

# Case problem

Law



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Defence Against Negligence For a cause of action regarding negligence to succeed one must show that there had been a duty of care owed to the injured party, a breach of the duty of care was made and that it eventually resulted to an injury. In the given case problem, there was an assumption of risk by Neal. Neal clearly states that he has never been skiing but would still want to do it. That means that Neal knows and understands the risk involved in the activity. Neal went ahead and ignored the safety rules offered to him by the sales person; that he had to take lessons in the sport before attempting a run. It can be concluded that though a minor, he voluntarily accepted the risk involved in skiing. There was thus an express assumption of risk. That is supported by what was decided in *Murphy vs. Steeplehouse Amusement Company*, 250 N. Y. 479. The court ruled that one is solely responsible for outcomes of an activity in which the person takes part if the dangers are obvious and necessary.

Contributory negligence makes the defendants not entirely liable. Neal's conduct of skiing while being inexperienced and besides too young falls below a certain standard necessary for his own protection, and this conduct cooperated with the defendants negligence of selling the skies to a minor who was also inexperienced. That eventually harmed Neal. Neal would have avoided the injuries had he gone for lessons. That leads to another defense available to the defendants. It is comparative negligence, which in other words would be non-absolute contributory negligence. With this type of defense, Neal would not recover by percentage in which he was at fault for his damage. In this way, the damages are shared between parties according to their contributions.

Work Cited

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Murphy v. Steeplechase Amusement Co., 250 N. Y. 479, 166 N. E. 173 (N. Y. 1929)