

Judgment of Giovanni Vivaldi v Josh Clifford

Vocabulary

Negligence is the failure to exercise the care toward others that a reasonable person would have done in the same situation. Negligence is accidental therefore does not need any reason behind it and is characterized by extreme carelessness. Negligence cases need to show that the defendant had a duty not to hurt them, that it was negligent and a reasonable person would not have done the same, and that the damages were caused by the negligence.

1. **Duty.** Josh had the duty not to run over Giovanni's foot while driving through their duty. A reasonable person would have foreseen the traffic and paid attention to the road and avoid hitting Giovanni. A reasonable person would not have been on their phone while driving.
2. **Breach.** Josh violated this duty on Tuesday November 18, 2014 when he ran over Giovanni's foot while driving. Josh should have for seen that diving while texting might lead to an accident of some kind. There was evidence of Giovanni's injury due to Josh's negligence.
3. **Cause.** As result of Josh texting he ran into Giovanni's foot. Giovanni being a pedestrian had the right of way, this law has to respected by all driver's even if that pedestrian is texting on their phone as shown in the picture. Josh is the cause of this accident because the phone records clearly show that he was texting none other than Andrew Luck at the time of the incident. Giovanni proved due to Josh being distracted he got his foot ran over.
4. **Harm.** To prove the harm done Giovanni had a receipt to show injury to is foot totaling \$2,059.49. There are differences in the receipt, as there are in the letters in which he states it cost \$3,796.41, I can only take the receipt as valid in this situation. Also it asks for \$1,203.08 for "bed rest" seeing that sleeping in a bed doesn't cost money I cannot award damages for that.

Therefore, after reviewing the evidence, I find for the plaintiff in the amount of \$2,059.49.