Plaintiff Without A Cause

General Motors Escapes Suit On 1966 Chevrolet Van

by Lawrence Savell

One of the fundamental principles of the law is that, generally speaking, to find someone liable for an injury (be it physical or monetary), the plaintiff must demonstrate that some act (or omission, where an act was required) of the defendant was the cause of the harm suffered.

There are actually many different "flavors" of causation recognized by the law. Perhaps the most important (and perhaps the most challenging for law students, if not practicing lawyers as well) is the concept of proximate cause.

Proximate cause has been defined in a variety of ways by courts and commentators. (The use of the word "proximate" may be a little misleading—it need not be the act or omission closest in time or space to the result.) The basic idea is that a proximate cause is that which, in a natural and continuous sequence, unbroken by any effective intervening cause, produces injury, and without which the result would not have occurred. An injury is proximately caused by an act, or a failure to act, if the act or omission played a substantial part in bringing about or actually causing the injury; and the injury was either a direct result or a reasonably probable consequence of the act or omission.

The concept of proximate cause was recently assessed in the context of the design of an old vehicle in *Goodman vs. General Motors Corporation*, decided on January 21, 1997, by the Supreme Court of New York, Appellate Division, Second Department.

According to the Court, on March 29, 1980, at approximately 4:30am, Kevin Cunningham was driving his station wagon home in a heavy rain. While heading southbound on Broadway in Massapequa Park, Cunningham crossed over the center line into the northbound lane. Cunningham's vehicle struck and seriously injured Michael Goodman while Goodman was in the roadway unloading newspapers from the rear of his 1966 Chevrolet van. Goodman's van, which was designed by the defendant General Motors, was facing south—*i.e.*, the wrong way—while double-parked in the northbound lane. In his deposition, Cunningham stated that he had not seen Goodman or Goodman's van until after he struck both. Goodman was injured.

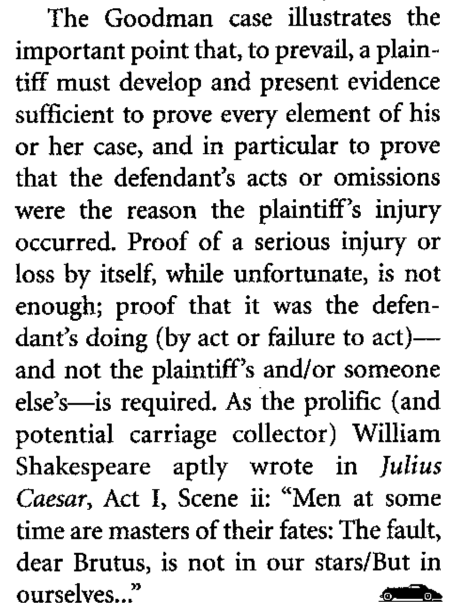
Goodman sued, among others, GM, alleging that the design of its 1966 Chevrolet van was defective. Specifically, he argued that the vehicle, which was meant for delivery work, had inadequate rear lighting, in that its rear lights were blocked from view when the rear doors were fully open.

After a jury trial, GM was found to be 5 percent at fault in the happening of the accident; Cunningham was found to have been 65 percent at fault and Goodman 30 percent at fault. The trial judge denied GM's motion for relief from that verdict, or in the alternative, to set aside the verdict and grant GM a new trial. GM appealed.

In its decision, the Appellate Division ruled in GM's favor. It concluded that "[i]n our view, the complaint must be dismissed insofar as asserted against GM." (Neither the appeal nor the appellate decision involved the liability of Cunningham, who was deceased by the time of the ruling.)

The Court observed that "[t]he evidence adduced at trial indicates that the plaintiff was essentially a pedestrian who was standing at the rear of his van in order to unload newspapers when he was hit from behind by Cunningham's car. Under these circumstances, the van's alleged design defect was not, as a matter of law, a proximate cause of the plaintiff's injuries. Rather, the sole proximate causes, *i.e.*, the immediately effective causes', of the plaintiff's injuries were Cunningham's impaired condition and careless driving combined with the plaintiff's own negligence in standing in a traveling lane in the dark...To hold GM liable on these facts 'is to stretch the concept of foreseeability beyond acceptable limits'... Accordingly, the complaint is dismissed insofar as asserted against GM."

The Goodman case illustrates the important point that, to prevail, a plaintiff must develop and present evidence sufficient to prove every element of his or her case, and in particular to prove that the defendant's acts or omissions were the reason the plaintiff's injury occurred. Proof of a serious injury or loss by itself, while unfortunate, is not enough; proof that it was the defendant's doing (by act or failure to act)—and not the plaintiff's and/or someone else's—is required. As the prolific (and potential carriage collector) William Shakespeare aptly wrote in *Julius Caesar*, Act I, Scene ii: "Men at some time are masters of their fates: The fault, dear Brutus, is not in our stars/But in ourselves..."



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