

**In the Supreme Court**

*Between –*

**Shelbourne County Council (Appellant)**

*and*

**Foster (Respondent)**

**Authorities**

1. *Hatton v. Sutherland* [2002] 2 All ER 1
2. *Coxhall v. Goodyear Great Britain Ltd.* [2002] EWCA Civ 1010
3. *Paris v. Stepney Borough Council* [1951] AC 367
4. *Withers v. Perry Chain Co* [1961] 1 WLR 1314

**Ground of Response**

1. The trial judge was correct to apply *Coxhall v. Goodyear Great Britain Ltd.* to the instant case.

**Submissions**

1. *Hatton v. Sutherland* established that an employer comes under a duty to take action to prevent an employee being harmed by stress at work when such harm is reasonably foreseeable as a result of the nature of the work or the character of the employee, or a combination of both. In this case, the harm was so foreseeable.
2. *Coxhall v. Goodyear Great Britain Ltd.* correctly stated that the nature and extent of the employer's duty to take action depends on the actual facts of the case. In this case, because the foreseeable damage was so likely to arise, and of such gravity, the employer came under a clear duty to take the necessary action to ensure it was avoided.
  - a. This approach has always been implicit in this area of law: In *Paris*, it was held that the particular likelihood and gravity of foreseeable damage could create increase the demands of the duty of care.
  - b. *Withers* did not lay down a general principle, and should be limited to its facts. In that case, the lack of a duty to dismiss can be explained by the fact that the risk of harm was small.

***Edward Waldegrave, Senior Counsel for the Respondent  
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