

A homeowner owned a large poisonous snake which had been defanged and was kept in a cage. A storm damaged the homeowner's house and the snake's cage, allowing the snake to escape. During the cleanup after the storm, a volunteer worker came across the snake. The worker tried to run away from the snake and fell, breaking his arm.

In a suit by the worker against the homeowner based on strict liability in tort to recover for his injury, will the worker prevail?

- A. No, because the snake's escape was caused by a force of nature.
- B. No, because the worker should have anticipated an injury during his volunteer work.
- C. Yes, because the homeowner did not take adequate precautions to secure the snake.
- D. Yes, because the worker's injury was the result of his fear of the escaped snake.

## Explanation:

### Strict animal liability

Livestock	Wild animals	Abnormally dangerous animals
Cattle	Lions	Rabid dogs/cats
Goats	Monkeys	Aggressive birds
Horses	Coyotes	Skittish horses
Deer	Zebras	Dangerously playful dogs
Rabbits	Venomous snakes	

**Strict liability** (liability without proof of fault) is imposed for certain activities that create unusual risks for other people—eg, owning or possessing a **wild animal**. An animal is wild if that **category** of animal typically is **undomesticated** and **likely to cause personal injury** unless restrained. A defendant is strictly liable for physical harm caused by his/her wild animal, but only if that harm stemmed from the animal's **abnormally dangerous characteristic**.

Here, although the homeowner's poisonous snake was defanged, it falls into a wild animal category because snakes typically are undomesticated and likely to cause personal injury (poisoning) unless restrained. And since the worker did not know that the snake was defanged and broke his arm while trying to run from its seemingly venomous bite, his harm stemmed from the dangerous characteristic of snakes. Therefore, the homeowner will be strictly liable for that harm.

**(Choice A)** Because there is very little social utility in owning wild animals, strict liability applies even if a force of nature (whether foreseeable or unforeseeable) allows a wild animal to escape.

**(Choice B)** In a pure comparative negligence jurisdiction (default rule), contributory negligence will reduce—but not bar—the plaintiff's recovery. As a result, even if the worker negligently contributed to his harm by failing to anticipate an injury, he would still prevail (but his recovery would be reduced by his share of fault).

**(Choice C)** Strict liability does not require proof of fault. Therefore, the homeowner is strictly liable even if he took adequate precautions to secure the snake.

### Educational objective:

A wild animal is a category of animal that typically is undomesticated and likely to cause personal injury unless restrained (eg, chimpanzee, tarantula, poisonous frog). The owner of a wild animal is strictly liable for physical harm stemming from the animal's abnormally dangerous characteristic.

### References

Restatement (Third) of Torts: Liab. for Physical & Emotional Harm § 22 (Am. Law Inst. 2010) (strict liability for wild animals).

Restatement (Third) of Torts: Liab. for Physical & Emotional Harm § 29 cmt. 1 (Am. Law Inst. 2010) (strict liability limited to wild animal's abnormally dangerous characteristic).

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