

A dairy farmer bought a milking system for his cows from an independent distributor. The farmer did not communicate with the manufacturer of the milking system or any of its agents before purchasing the system. The distributor knew that the farmer had several lucrative contracts with milk wholesalers, but the manufacturer was unaware of these contracts. The system never operated properly because of a manufacturing defect, and as a result the dairy farmer lost much of the wholesale contract revenue.

Does the farmer have a viable strict products liability claim against the manufacturer for recovery of his lost revenue?

- A. No, because of the economic loss doctrine.
- B. No, because the manufacturer was not aware of the farmer's wholesale contracts.
- C. Yes, because the consequential damages rule of contract law does not apply in a products liability action in which the product was in fact defective.
- D. Yes, because the milking system's defect proximately caused the farmer's loss of revenue.

Incorrect

Correct answer A

Collecting Statistics

02 mins, 11 secsTime Spent

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### Explanation:

Products liability can arise under several theories, including strict liability—ie, liability without proof of fault. Under a **strict products liability theory**, the following elements must be proven:

The defendant was a **commercial supplier or seller** (eg, manufacturer—as seen here).

The product was **defective** at the time it left the defendant's control (eg, manufacturing defect—as seen here).

The **defect caused the plaintiff *physical harm*** (ie, bodily harm or property damage).

Since a strict products liability claim requires proof of physical harm, the **economic-loss doctrine prohibits** claims for **purely economic loss**. Purely economic losses include any **harm to the defective product** itself as well as **consequential damages arising therefrom** (eg, lost revenue).

Here, the manufacturer's defective milking system caused the dairy farmer to lose revenue from his contracts with the milk wholesalers. But the farmer suffered only lost revenue—not bodily harm or property damage. And since the economic-loss doctrine does not allow claims for purely economic losses, the farmer does *not* have a viable strict products liability claim against the manufacturer to recover his lost revenue.

**(Choice B)** The farmer does not have a viable strict products liability claim against the manufacturer because he suffered purely economic losses—not because the manufacturer was unaware of the farmer's wholesale contracts.

**(Choice C)** Under contract law, consequential damages are recoverable if they were reasonably foreseeable to the breaching party when the parties entered into the contract. Although this rule of *contract* law does not apply in a products liability action, the farmer does not have a viable strict products liability claim because of the economic-loss doctrine—a rule of *tort* law.

**(Choice D)** The milking system's defect proximately caused the farmer's loss of revenue. Nevertheless, the economic-loss doctrine prohibits the farmer from recovering this lost revenue—a purely economic loss.

### Educational objective:

Strict products liability claims require proof of physical harm (ie, bodily harm or property damage). Claims for purely economic loss, including harm to the defective product itself and consequential damages arising therefrom (eg, lost revenue), are not allowed.

### References

Restatement (Third) of Torts: Prods. Liab. § 21 (Am. Law Inst. 1998) (explaining that a strict products liability action requires proof that the plaintiff suffered physical harm, which does not include pure economic loss).

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