

A plumbing company hired a worker to work at various construction sites. The worker used his own truck to travel between the company's warehouse and the construction sites, but the company fitted the truck with a rack for carrying plumbing pipes. The company paid the worker for traveling between the warehouse and the construction sites, but not for his drive to and from work.

Because the worker was required to haul pipes on his truck while driving between the warehouse and the construction sites, the company asked the worker, before hiring him, whether he had a valid driver's license. The worker represented that he did, although in fact his license had been suspended because he had been convicted of recklessly causing motor vehicle collisions. The company made no effort to verify the worker's representation.

While driving to work one morning in his truck, the worker carelessly caused a collision in which a woman was injured.

In her subsequent action against the plumbing company, based on a theory of negligent hiring, is the woman likely to prevail?

- A. No, because the actions taken by the worker were not in the performance of his employment or job duties.
- B. No, because the worker was an independent contractor.
- C. Yes, because the company fitted the worker's truck with a pipe rack.
- D. Yes, because the company had a duty to ensure that its workers had valid driver's licenses.

### **Explanation:**

Liability for **negligent hiring** arises when a defendant's failure to use reasonable care in hiring a competent worker causes the plaintiff harm. Therefore, a defendant is only liable for negligent hiring if there is a **causal connection** between the defendant's **negligence in hiring the worker**, the **worker's employment or job duties**, and the **plaintiff's harm**.

Here, the plumbing company failed to use reasonable care when it made no effort to verify that the worker—who was paid to drive between the warehouse and various construction sites—had a valid driver's license **(Choice D)**. But even though the worker carelessly collided with the woman, it occurred during his commute to work—not during his employment or performance of job duties (no causal connection). Therefore, the plumbing company is not liable for negligent hiring.

**(Choice B)** A defendant can be liable for negligent hiring of an employee or an independent contractor. Therefore, the fact that the worker was an independent contractor will not defeat the woman's claim. Instead, her claim will fail because the worker was not acting in performance of his employment or job duties when the collision occurred.

**(Choice C)** Although the plumbing company fitted the worker's truck with a pipe rack, it only paid him to drive the truck between the warehouse and construction sites—not to and from work. And since the collision occurred while he was driving to work (not while performing job duties), the company is not liable for the woman's injury.

### **Educational objective:**

Liability for negligent hiring arises when a defendant's failure to use reasonable care in hiring a competent worker causes the plaintiff harm—ie, there must be some causal connection between the defendant's negligence in hiring the worker, the worker's employment or job duties, and the plaintiff's harm.

### **References**

Restatement (Third) of Agency § 7.05 (Am. Law Inst. 2006) (negligent hiring).

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**Liability for negligent hiring**  
(requires causal connection with employment or job duties)

