

A shopper slipped and fell in a grocery store, injuring her wrist. In a medical malpractice action against the doctor who treated her, the shopper alleges that the doctor worsened the injury by his treatment. Normally, competent medical treatment would have resulted in a complete cure of the wrist injury.

The doctor is seeking to implead the grocery store. The grocery store contends that its alleged negligence was not a proximate cause of any of the injuries allegedly caused by the doctor.

Should the court allow the doctor to implead the grocery store?

- A. No, because medical malpractice and the negligence of a possessor of property involve different standards of care.
- B. No, because the alleged negligent acts of the grocery store and the doctor occurred sequentially and not concurrently.
- C. No, because the fact-finder could find that the shopper sustained a single indivisible injury proximately caused by the negligence of both the grocery store and the doctor.
- D. Yes, because the fact-finder could assign some of the responsibility for the shopper's injuries to the grocery store.

Incorrect

Correct answer D

Collecting Statistics

01 min, 26 secsTime Spent

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Explanation:

Impleader is a procedural mechanism that allows a defendant to add a nonparty to a suit who may be liable to the defendant for some or all of the plaintiff's claim. For example, a defendant being sued for negligence can implead a nonparty whose **negligent actions** actually and proximately caused the plaintiff's harm. **Proximate causation** exists if the plaintiff's harm was a **reasonably foreseeable consequence** of the impleaded party's conduct.* The chain of proximate causation is:

broken by an **unforeseeable, intervening act** or force that occurred after the impleaded party's negligence and contributed to the plaintiff's harm (ie, a **superseding cause**) *but*

not broken by a **foreseeable, negligent intervening act**—eg, a doctor's negligent treatment.

Here, the shopper injured her wrist when she slipped and fell in the grocery store. Although the doctor's subsequent medical malpractice worsened the injury, the doctor's negligence was foreseeable and does not break the chain of proximate causation. As a result, the fact finder could assign some of the responsibility for the shopper's injuries to the grocery store. Therefore, the court should allow the doctor to implead the grocery store.

*This is the [majority rule](#) for proximate causation that should be applied unless the question states otherwise.

(Choice A) Although medical [malpractice](#) and the negligence of a [possessor of property](#) involve different standards of care, the fact finder could still could assign some of the responsibility for the shopper's injuries to the grocery store.

(Choice B) The fact that the alleged negligent acts of the grocery store and the doctor occurred sequentially and not concurrently (ie, at the same time) is irrelevant since the doctor's malpractice is considered foreseeable.

(Choice C) If the fact finder finds that the shopper sustained a single indivisible injury proximately caused by the negligence of both the grocery store and the doctor, then impleader would be *appropriate*.

Educational objective:

Superseding causes are *unforeseeable*, intervening acts that occur after the defendant's negligence, contribute to the plaintiff's harm, and break the chain of proximate causation. However, negligent intervening acts are typically regarded as *foreseeable* and do not break the chain of proximate causation.

References

Restatement (Third) of Torts: Phys. & Emot. Harm § 35 (Am. Law Inst. 2010) (explaining that subsequent medical malpractice does not break the initial tortfeasor's chain of proximate causation).

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Chain of causation for negligence

Superseding cause