

A dentist was anesthetizing a patient's jaw before pulling a tooth. Although the dentist used due care, the hypodermic needle broke off in the patient's gum tissue, causing injury. The needle broke because of a manufacturing defect that the dentist could not have detected.

Is the patient likely to recover damages in an action against the dentist based on strict products liability and malpractice?

- A. No, on neither basis.
- B. Yes, based on malpractice, but not on strict products liability.
- C. Yes, based on strict products liability, but not on malpractice.
- D. Yes, on both bases.

Explanation:

Strict products liability claims require proof that the defendant is a **commercial supplier**—one in the business of **manufacturing or selling** the type of defective product that harmed the plaintiff. Here, the patient was injured by a **manufacturing defect** in a hypodermic needle. But since the dentist is a *service* provider (not in the business of manufacturing or selling needles), the patient cannot recover under this claim (**Choices C & D**).

Malpractice claims require proof that a **professional** (eg, dentist, doctor, lawyer) deviated from the standard of care that reasonable professionals in his/her field would have used under similar circumstances. Here, the dentist used due care and could not have detected the needle's defect. Since there is no evidence that the dentist deviated from professional standards, the patient is unlikely to recover on this basis (**Choices B & D**).

Educational objective:

Strict products liability arises when a commercial supplier produces or sells a defective product (not a service) that causes the plaintiff harm. Malpractice liability arises when a professional fails to use the standard of care that reasonable professionals in his/her field would have used under similar circumstances.

References

Restatement (Third) of Torts: Prods. Liab. §§ 1, 20 (Am. Law Inst. 1998) (liability of commercial suppliers).

Restatement (Second) of Torts § 299A (Am. Law Inst. 1965) (professional standard of care).

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Commercial supplier/seller
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Service provider
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