

A customer went to a restaurant for lunch. The customer told the server that he had a severe peanut allergy and requested that the chef be extra cautious about not putting peanuts in his food. The server conveyed this information to the head chef. The head chef then asked a line cook to prepare the customer's meal and told the line cook not to put any peanuts in it because the customer was allergic to them. The line cook, who had a mental disability, did not think that the dish he was preparing for the customer would taste good without peanuts. He chopped up a few peanuts and added them to the dish, thinking that a few peanuts would not harm the customer. The customer took a bite of his meal, went into anaphylactic shock, and was rushed to a nearby hospital.

If the customer files a negligence action against the line cook, is the customer likely to prevail?

- A. No, because the line cook did not act in bad faith when he decided to put peanuts in the customer's food.
- B. No, because the line cook's mental disability prevented him from understanding the effect of putting peanuts in the customer's food.
- C. Yes, because a person with a mental disability is held to the same standard as someone of ordinary intelligence and knowledge.
- D. Yes, because the line cook intentionally put peanuts into the customer's food.

## Explanation:

### Standards of care for negligence

<b>Adult</b>	Must act in same manner as ordinary, reasonable adult in similar circumstances  Standard adjusted for physical disabilities, superior skill & knowledge, involuntary intoxication Standard not adjusted for mental & emotional disabilities, voluntary intoxication
<b>Professional</b>	Must demonstrate same knowledge, skill & care as another professional in similar community  National (not community) standard applied to medical specialists*
<b>Child</b>	Must act in same manner as reasonable child of same age, intelligence & experience  Adult standard applied to children engaged in dangerous adult activity Children under five years old incapable of negligence

\*A modern trend applies a national standard of care to *all* physicians.

In **negligence** cases, the **standard of care** most often imposed is that of a **reasonably prudent person** under the circumstances. Under this standard, a defendant is presumed to have the same mental abilities and knowledge as an average member of the community. A defendant's own mental or emotional disability is *not* a factor in determining whether the defendant was negligent (unless the defendant is a child). Therefore, a **mentally incompetent person** is held to the **same standard** as **someone of ordinary intelligence and knowledge**.

Here, a person of ordinary intelligence and knowledge who knew that the customer had a severe peanut allergy would not have put peanuts in the customer's food. The line cook will be held to that standard, even if his mental disability prevented him from understanding the ramifications of putting peanuts in the customer's food (**Choice B**). And since the line cook failed to conform to this standard (ie, breached his duty of care) and caused the customer's injuries, the customer is likely to prevail.

**(Choice A)** The standard of care for negligence is an objective one; it is measured by what a reasonably prudent person would have done rather than whether a particular defendant acted in good faith or used his/her best efforts. Therefore, the fact that the line cook did not act in bad faith when he decided to put peanuts in the customer's food will not be considered in determining whether he breached his duty of care.

**(Choice D)** It is not enough that the line cook intentionally put peanuts in the customer's food. For negligence liability, the line cook also must have breached a duty that he owed to the customer (as seen here).

**Educational objective:**

In negligence cases, a mentally incompetent person is held to the same standard as a reasonably prudent person with ordinary intelligence and knowledge.

**References**

Restatement (Third) of Torts § 11 cmt. e (Am. Law Inst. 1965) (explaining that an adult's mental or emotional disability is not a factor in determining whether he/she was negligent).

Copyright © UWorld. All rights reserved.