

A company manufactured metal stamping presses that were usually sold with an installed safety device that made it impossible for a press to close on a worker's hands. The company strongly recommended that its presses be purchased with the safety device installed, but would sell a press without the safety device at a slightly reduced price.

Rejecting the company's advice, a worker's employer purchased a stamping press without the safety device. The press closed on the worker's hand, crushing it.

If the worker were to sue the company, would the worker be likely to prevail?

- A. No, because the company strongly recommended that the worker's employer purchase the press with the safety device.
- B. No, because the failure of the worker's employer to purchase the press with a safety device was a superseding cause of the worker's injury.
- C. Yes, because the company sold the press to the worker's employer without an installed safety device.
- D. Yes, because the company's press was the cause in fact of the worker's injury.

## Explanation:

### Types of product defects

<b>Manufacturing defect</b>	Deviation from intended design (eg, incorrect assembly)
<b>Design defect</b>	Foreseeable risk of harm that could have been mitigated by feasible alternative design (ie, reasonable in cost)
<b>Inadequate warning</b>	No reasonable instructions or warnings about risks of harm

**Strict products liability** is imposed on a commercial seller (eg, manufacturer, wholesaler, retailer) when its defective product causes the plaintiff harm. A product is **defective by design** when:

the design creates a **foreseeable risk** of physical harm *and* that risk could have been mitigated by a **reasonable alternative design** (eg, a modification that reduces the risk for a reasonable cost).

Here, the company's metal stamping presses posed a foreseeable risk of closing on a worker's hands. As a result, the company usually sold its presses with a pre-installed safety device that eliminated the risk of harm for a slightly increased cost (reasonable alternative design). But since the company still sold presses *without* the safety device (defective design) and that defect caused the press to crush the worker's hand, the company is strictly liable for the worker's harm.

**(Choice A)** When a manufacturer has a reasonable alternative design, it cannot avoid strict liability by merely warning the purchaser of the product's danger. Therefore, the company's recommendation that customers purchase presses *with* the safety device installed does not extinguish its strict liability for selling presses *without* the safety device.

**(Choice B)** A superseding cause is an *unforeseeable* intervening act or force that breaks the chain of causation between the defendant's tortious conduct and the plaintiff's harm. Here, since presses were sold without the safety device, it was *foreseeable* that the worker's employer might purchase one without the device. Therefore, the company's purchase was not a superseding cause.

**(Choice D)** Although a plaintiff must prove that a product was the cause of his/her injury to prevail on a strict products liability claim, the plaintiff must also prove that the product was defective.

### Educational objective:

Strict products liability is imposed on a commercial seller whose defective product caused the plaintiff harm. A product is defective by design if (1) the design creates a foreseeable risk of physical harm and (2) that risk could have been mitigated by a reasonable alternative design (a safer design available at a reasonable cost).

**References**

Restatement (Third) of Torts: Prods. Liab. §§ 1, 2(b) (Am. Law Inst. 1998) (liability for defectively designed products).

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