

An eight-year-old boy sometimes rode his bicycle down his driveway into a busy highway while unsupervised. The boy's parents were aware of this behavior but did nothing to stop it. One day, a driver had to stop her car suddenly to avoid colliding with the bike. Because of the sudden stop, the driver's two-year-old daughter, who was sitting on the seat without any restraint, was thrown into the dashboard and injured. Had the daughter been properly restrained in a baby car seat, as required by a state safety statute of which her mother was aware, she would not have been injured.

In an action brought on the daughter's behalf against the eight-year-old boy's parents for her injuries, will she prevail?

- A. No, because parents are not vicariously liable for the negligent acts of their children.
- B. No, because the daughter's injury was attributable to the driver's knowing violation of a safety statute.
- C. Yes, because the boy riding into the highway was negligent and the proximate cause of the daughter's injuries.
- D. Yes, because the boy's parents knew that he sometimes drove into the highway, and they took no steps to prevent it.

Explanation:

Special relationships

imposing duty to control others

Parent/Child

Mental health professional/Patient

Employer/Employee

Custodian/Prisoner

Mnemonic: **P**lease **M**ake **E**veryone **C**areful

A defendant generally has no duty to control another's conduct unless the parties have a special relationship. Since parents and children have a special relationship, **parents** have a **duty to exercise reasonable care to prevent** their minor child from causing **foreseeable harm to others**. Therefore, parents are liable for **negligence** if they breach this duty and cause the plaintiff harm.

Here, the parents had a duty to use reasonable care to prevent their eight-year-old son from harming others since they knew that he sometimes rode his bicycle into the highway (ie, it was *foreseeable* that he might harm others). They breached that duty when they failed to take reasonable steps to prevent their son from doing so (eg, by supervising him). And since their negligence caused (at least in part) the daughter's injuries, she will prevail.

(Choices A & C) Parents are generally not vicariously liable for their child's negligence unless the child was acting as their agent (ie, with the authority to act on their behalf). Since there is no evidence that the boy was acting as his parents' agent, they are not *vicariously* liable for his negligence—even though that negligence was a cause of the daughter's injuries. However, the parents are still *directly* liable for their own negligence.

(Choice B) Under the doctrine of joint and several liability, multiple tortfeasors can be liable together or separately for the plaintiff's entire harm. Here, the daughter's injury is attributable to multiple tortfeasors—the driver who knowingly violated a safety statute and the negligent parents. Therefore, the daughter could seek recovery for all her injuries from the driver *and/or* the parents.

Educational objective:

Parents owe a duty to exercise reasonable care to prevent their minor child from causing foreseeable harm to others.

References

Restatement (Third) of Torts: Liab. for Physical & Emotional Harm § 3 (Am. Law Inst. 2010) (negligence defined).

Restatement (Third) of Torts: Liab. for Physical & Emotional Harm § 41 (Am. Law Inst. 2012)
(parental duty to control child).

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