As a shopper was leaving a supermarket, an automatic door that should have opened outward opened inward, striking and breaking the shopper's nose. The owner of the building had installed the automatic door. The lease, pursuant to which the supermarket occupied the building, provided that the supermarket was responsible for all maintenance of the premises.

The shopper sued the supermarket. At trial, neither the shopper nor the supermarket offered any testimony, expert or otherwise, as to why the door had opened inward. At the close of evidence, both the shopper and the supermarket moved for judgment as a matter of law.

How should the trial judge rule?

A. Grant judgment for the shopper, because it is undisputed that the door malfunctioned.
B. Grant judgment for the supermarket, because the shopper failed to join the owner of the building as a defendant.
C. Grant judgment for the supermarket, because the shopper failed to offer proof of the supermarket's negligence.
D. Submit the case to the jury, because on these facts negligence may be inferred.

Explanation:

Land possessors (eg, the supermarket) have a nondelegable duty to keep their premises safe for invitees (eg, the shopper). A land possessor who breaches this duty and causes the plaintiff physical harm is liable for negligence. And if there is no direct evidence of negligence, the doctrine of **res ipsa loquitur** permits—but does not require—an **inference** of **negligence** when:

the plaintiff suffered a **type of harm** that is **usually caused by negligence** of someone in the defendant's position *and*

the evidence tends to **eliminate other potential causes** of that harm (eg, the instrumentality that inflicted the harm was under the defendant's **exclusive control**).

If reasonable juries could reach differing conclusions on the issue of negligence, the court should deny both parties' motions for judgment as a matter of law and submit the case to the jury.

Here, an automatic door in the supermarket opened in the wrong direction and broke the shopper's nose. A reasonable jury could conclude that the supermarket was not negligent—eg, if the injury was caused by the building owner's installation. But a reasonable jury could also infer negligence because (1) an automatic door would not usually malfunction unless negligently maintained and (2) the supermarket had exclusive control of maintaining the door **(Choice C)**. Therefore, the court should deny both motions and submit the case to the jury.

(Choice A) The undisputed fact that the door malfunctioned does not prove the supermarket's negligence. And strict liability is inappropriate here since there was no commercial sale of a defective product.

(Choice B) The shopper is not required to sue all possibly negligent persons. Therefore, the shopper's failure to join the building owner as a defendant does not justify judgment as a matter of law for the supermarket.

Educational objective:

The doctrine of res ipsa loquitur permits an inference of negligence if (1) the plaintiff suffered a type of harm that is usually caused by negligence of someone in the defendant's position and (2) the evidence tends to eliminate other potential causes of that harm.

References

Restatement (Second) of Torts § 328D (Am. Law Inst. 1965) (explaining when a defendant's negligence can be inferred based on the type of accident that injured the plaintiff).

Res ipsa loquitur—"the thing speaks for itself"
(*Byrne v. Boadle*)