

A mother went to a retail toy store to purchase a birthday gift for her eight-year-old daughter. Without inspecting it, a toy-store employee sold an electric toy oven to the mother. The toy oven could bake small batches of real food using heat generated from light bulbs located in the interior of the oven. The instructions that came with the toy oven clearly stated that adult supervision was required when operating the oven, so the mother helped the daughter use the oven to bake brownies. While the brownies were baking, a six-year-old boy who lived next door came over to play with the daughter. When the brownies were done baking, the mother allowed the boy to open the oven and remove them. As he was doing so, a broken light bulb inside of the oven suddenly caught on fire, causing second-degree burns on the boy's hands.

The boy's father subsequently filed a negligence action against the manufacturer of the toy oven. At trial, it was established that had the manufacturer or the toy store exercised reasonable care in the inspection of the toy oven, the broken light bulb would have been discovered.

Who is likely to prevail?

- A. The boy's father, because the manufacturer breached its duty of reasonable care toward the boy.
- B. The boy's father, because the manufacturer is strictly liable for the toy oven's defect.
- C. The manufacturer, because it was not reasonably foreseeable that the boy would be injured by the daughter's defective toy oven.
- D. The manufacturer, because the toy store's negligent failure to inspect the toy oven before selling it to the mother is a superseding cause of the boy's injuries.

Explanation:

A **commercial manufacturer**, distributor, retailer, or seller of a product owes a **duty of reasonable care** to **any foreseeable plaintiff** (ie, purchaser, user, bystander). **Failure to exercise reasonable care** in the **inspection or sale** of a product constitutes a **breach** of that duty. If the breach causes the plaintiff physical harm (ie, personal injury or property damage), the plaintiff will prevail in a negligence action.

Here, the manufacturer owed a duty of reasonable care to the boy as a user of the toy oven because it was foreseeable that other children might play with the daughter's toy **(Choice C)**. Had the manufacturer exercised reasonable care in the inspection of the oven, it would have discovered the broken light bulb and the boy would not have suffered second-degree burns. Therefore, the boy's father will prevail because the manufacturer breached its duty of reasonable care toward the boy and caused his injuries.

(Choice B) A strict products liability action requires proof that the product was **defective**, the defect existed when it left the defendant's control, and the defect caused the plaintiff's injuries. But here, the father filed a negligence action—not a strict products liability action.

(Choice D) The toy store's failure to inspect the toy oven before selling it to the mother is *not* a **superseding cause** that would relieve the manufacturer of liability for the boy's harm. That is because the toy store's failure to inspect the toy oven was *foreseeable*.

Educational objective:

Commercial manufacturers, distributors, retailers, and sellers of a product owe a duty of reasonable care to any foreseeable plaintiff (ie, purchaser, user, or bystander). The failure to exercise reasonable care in the inspection or sale of a product constitutes a breach of that duty.

References

Restatement (Third) of Torts: Prods. Liab. § 15 (Am. Law Inst. 1998) (failure to inspect product).

Products liability

