

A grandmother had her grandson and his friend, both eight years old, over to visit at her house. The grandson and his friend explored her home and discovered a hunting rifle in an unlocked gun cabinet. They removed it from the cabinet and were examining it when the rifle, while in the grandson's hands, somehow discharged. The bullet struck and injured his friend. The gun cabinet was normally locked, but the grandmother had opened it for dusting several days before the boys' visit and had then forgotten to relock it. She was not aware that it was unlocked when the boys arrived.

The friend brought a suit against the grandmother to recover for his injuries. The friend introduced evidence supporting all the facts listed above. At the end of the friend's case-in-chief, the grandmother moved for a directed verdict.

The jurisdiction has abolished traditional rules of landowner liability.

How should the court rule on the grandmother's motion?

- A. Deny the motion, because a jury could find that the grandmother breached a duty of care she owed to the friend.
- B. Deny the motion, because keeping a firearm in one's home is an abnormally dangerous activity.
- C. Grant the motion, because the grandmother did not recall that the gun cabinet was unlocked.
- D. Grant the motion, because the grandmother is not legally responsible for the acts of her grandson.

Explanation:

A court should grant a defendant's motion for a **directed verdict** if the plaintiff fails to present legally sufficient evidence to support every element of his/her claim—ie, **no reasonable jury could find** in the plaintiff's favor. In a **negligence claim**—the typical claim for **unintended** physical harm—the plaintiff must prove all of the following:

The defendant owed the plaintiff a **duty**.

The defendant **breached** that duty.

The defendant's breach **caused** the plaintiff's harm.

The plaintiff is entitled to **damages** (ie, suffered physical harm).

Traditionally, the duty owed to land entrants depends on their **status** on the land (eg, licensee). But under the **modern approach**—adopted in this jurisdiction and about half the others—**land possessors** owe **all land entrants** (except flagrant trespassers) a **duty of reasonable care**.

Here, the grandmother (land possessor) owed a duty of reasonable care to her grandson's friend because he was visiting her home (land entrant). A reasonable jury could find that she breached that duty by failing to lock the gun cabinet, which ultimately caused the friend to get shot and suffer damages. As a result, the court should deny her motion for a directed verdict and allow the case to proceed.

(Choice B) Keeping a firearm in one's home is *not* an **abnormally dangerous activity** that subjects the actor to strict liability (ie, liability regardless of fault). That is because it is a common activity whose risks can be mitigated by reasonable care.

(Choice C) The fact that the grandmother did not recall that the gun cabinet was unlocked does not shield her from liability for negligence since she owed the friend a duty to ensure that it was locked.

(Choice D) The grandmother is not legally responsible for her grandson's acts because they do not share a **special relationship** (eg, parent-child). But she is responsible for her *own* failure to lock the gun cabinet.

Educational objective:

Under the modern approach to land-possessor liability, land possessors owe a duty of reasonable care to *all* land entrants (except flagrant trespassers).

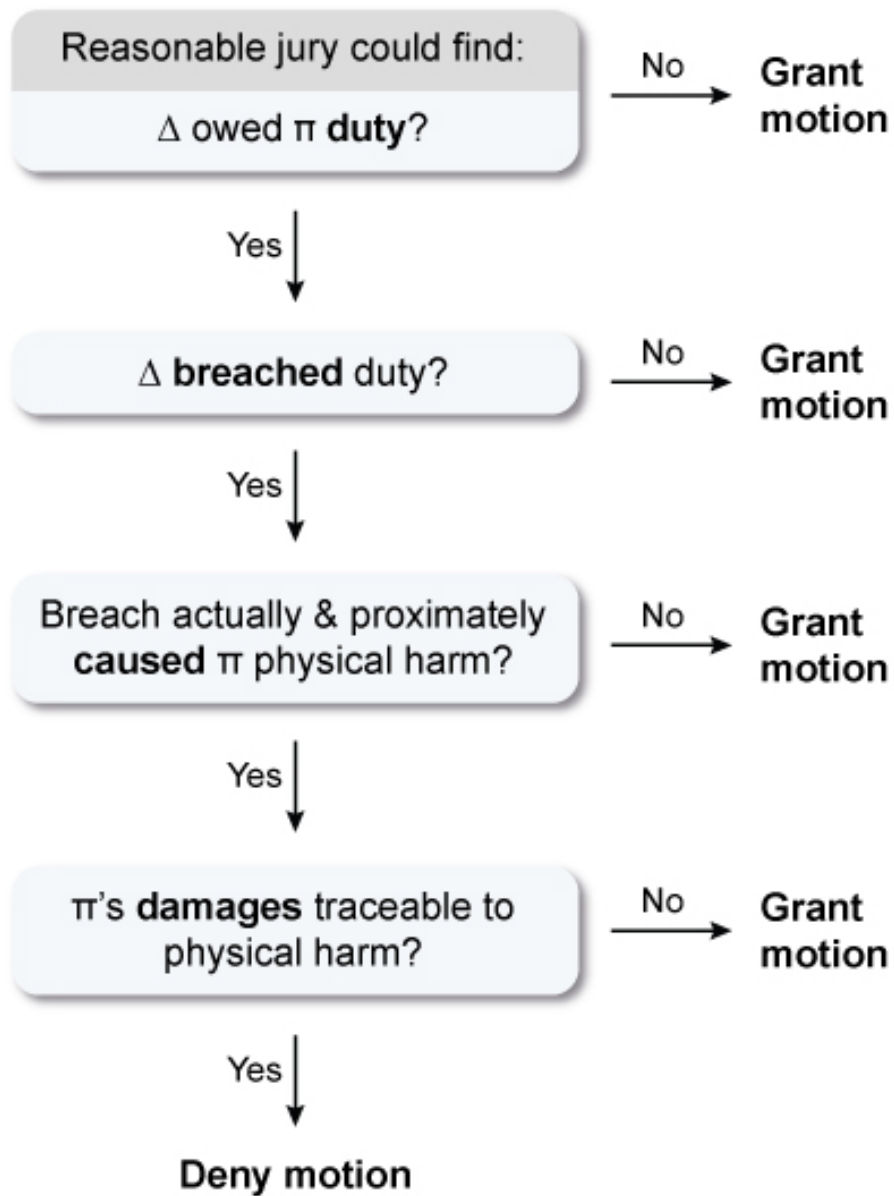
References

Restatement (Third) of Torts § 51 (Am. Law Inst. 2012) (general duty of land possessors).

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Defendant's motion for directed verdict (negligence claim)



Δ = defendant; π = plaintiff