

A fire that started in the defendant's warehouse spread to the plaintiff's adjacent warehouse. The defendant did not intentionally start the fire, and the plaintiff can produce no evidence as to how the fire started. However, the defendant had failed to install a sprinkler system, which was required by a criminal statute. The plaintiff can produce evidence that had the sprinkler system been installed, it could have extinguished the fire before it spread.

In an action by the plaintiff against the defendant to recover for the fire damage, is it possible for the plaintiff to prevail?

- A. No, because there is no evidence that the defendant negligently caused the fire to start.
- B. No, because the statute provides only for criminal penalties.
- C. Yes, because a landowner is strictly liable for harm to others caused by the spread of fire from his premises under the doctrine of *Rylands v. Fletcher*.
- D. Yes, because the plaintiff was harmed as a result of the defendant's violation of a statute that was meant to protect against this type of occurrence.

Explanation:

Elements of negligence per se

Defendant violated statute or ordinance

Plaintiff suffered type of harm statute or ordinance was intended to prevent

Plaintiff is in class of persons statute or ordinance was intended to protect

Civil actions for accidental fire damage are typically based on negligence. To prevail on a negligence claim, the plaintiff must prove the following **elements**: duty, breach, causation, and damages. And under the doctrine of **negligence per se**, the elements of **duty and breach are presumed** if:

the defendant **violated a statute**

that statute was **intended to prevent** the **type of harm** suffered by the plaintiff *and* the plaintiff is within a **class of persons** that the statute was **intended to protect**.

Here, the defendant violated a statute designed to protect buildings and people from fire by failing to install a sprinkler system. As a result, the defendant's duty and breach will be presumed. And though there is no evidence that he negligently caused the fire to *start*, there is evidence that a sprinkler system could have prevented the fire from *spreading* to the plaintiff's warehouse (**Choice A**). As a result, there is evidence that the defendant's failure to install a sprinkler system caused the plaintiff's loss—making it possible for the plaintiff to prevail.

(Choice B) The fact that a statute provides only for criminal penalties does not preclude it from establishing a duty of care for a civil negligence claim.

(Choice C) Under the modern interpretation of *Rylands v. Fletcher*, a landowner is strictly liable for harm caused by an **abnormally dangerous activity** on his/her land. Since there is no indication that the defendant was engaging in any such activity in his warehouse here, this precedent does not apply.

Educational objective:

Under the doctrine of negligence per se, duty and breach are presumed if (1) the defendant violated a statute, (2) that statute was intended to prevent the type of harm suffered by the plaintiff, and (3) the plaintiff is within a class of persons that the statute was intended to protect.

References

Restatement (Second) of Torts § 288B (Am. Law Inst. 1965) (explaining that it is negligent per se to violate a statute that establishes a duty of care).

Rylands v. Fletcher [1868] UKHL 1, [1868] LR 3 (HL) 330 (appeal taken from Eng.) (holding the defendant strictly liable for storing water that flooded the plaintiff's adjacent land).

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