

Facts:

CeCe, worked for WhereDoYouWantToGo.Com, an internet startup company, which had just recently moved into a new office building. The internet startup company occupied the top two floors of a three-story building. Access to the two floors was either through the main entrance or through another set of double doors that led to a service elevator. The double doors that lead to the service elevator were under the exclusive control of WhereDoYouWantToGo.Com. The landlord of the building was the House Corporation.

The double doors that led to the service elevator had a tendency to become unlocked because of high winds. WhereDoYouWantToGo.Com, without consulting the House Corporation contracted with Locksmiths to install an electromagnetic lock system. This system was comprised of a magnetic lock and an armature plate weighing about 2 to 5 pounds. Locksmiths assured WhereDoYouWantToGo.Com that the electromagnetic lock system would work.

About 8 months after the electromagnetic lock system was installed, CeCe, who was returning from a break was struck on the head, shoulder, and arm by the armature plate, which had come loose and struck her.

Questions:

Identify all possible defendants in a personal injury action. What defenses may the defendants raise? What is CeCe's chance of prevailing?

Example Answer:

The essence of negligence is that the Defendant has imposed an "unreasonable" risk of harm on the Plaintiff, and the Plaintiff has been injured as a result. A prima facie case of negligence requires: duty, breach of that duty, causation, and damages. Plaintiff must prove these elements by a preponderance of the evidence. Manufacturers, distributors, and sellers of products can be held liable for injuries caused by their failure to exercise due care.

CeCe v. House Corporation

The first step in analyzing House Corporation's potential liability is to classify whether CeCe is a trespasser, licensee, or invitee because a different duty is owed to each. CeCe does not appear to be a trespasser. A trespasser is one who enters or remains on the land of another without permission. Accordingly, CeCe is either a licensee or an invitee. CeCe is more likely to be classified as an invitee licensee because invitees are generally business visitors or public people. As an invitee, House Corporation owes CeCe the duty to

protect CeCe not only against defects known to it, but also against those which could be discovered by the exercise of ordinary care. The House Corporation has a duty of inspection as well as a duty to repair or warn of known defects.

Here, the facts indicate that the area where the accident occurred was under the exclusive control of WhereDoYouWantToGo.Com. So, the House Corporation is likely to argue that it did not have a duty of care to CeCe. CeCe must prove all the elements of negligence by a preponderance of the evidence.

CeCe v. WhereDoYouWantToGo.Com

As CeCe's employer, WhereDoYouWantToGo.Com owed her a duty of reasonable care. Liability for WhereDoYouWantToGo.Com will center on whether it had notice of the potentially defective condition or could have discovered it.

WhereDoYouWantToGo.Com may try to raise the defense of Worker's Compensation statutes. Under most Worker's Compensation statutes, an employee is automatically entitled to benefits when her injury arises out of an incident in the course of employment. However, the worker gives up all common-law rights to sue the employer for negligence or other tortious conduct.

CeCe v. Locksmiths, Unknown Roe Manufacturers, and Unknown Roe Distributors

A commercial supplier (manufacturer, wholesaler, retailer) that introduces into the stream of commerce a product "in a defective condition unreasonably dangerous" is liable for personal injury caused by the product's dangerous defect.

Here, Locksmiths, Roe Manufacturers, and Roe Distributors are likely to argue that the product was not defective and that CeCe's misuse caused her injuries. The Roe Manufacturers and Roe Distributors are also likely to argue that Locksmiths installed the device wrong.