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Abnormally dangerous activity (Strict liability)

Abnormally dangerous activity is a activity that is not common usage in the community and when it proved the duty and breach will be absolute and plaintiff needs to proves causation and damages.

Here DishWay developed a new product that named UltraKlean and the company knew that this product cause severe pain if ingested and since this product was using for washing dishes and there fore if constitute an abnormally dangerous activity because washing dishes is amounts to a common usage in the community since the people washes dishes every day and producing a dangerous product which was a common usage in the community and Dishway knew about the stomach pain and therefore this is abnormally dangerous activity.

Here Dish way produced a dangerous product and it was foreseeable that people when using the the dishwasher the residue will remain on dishes and although it is not unuall for the dishwasher powders to leave harmless amount of residue but here the amount actually harmed Paul when he purchased and used the product for pots to prepare the meal and he actually harmed and hospitalized from using this product for his dishes.

DishWay will be strictly liable under the the theory of Abnormally dangerous activity to Paul.

Strict Product liability

Under the strict product liability plaintiff needs to prove that he used a defective product and right plaintiff harmed from using the product and results was foreseeable or unforeseeable use of the product.

Product will be any product which is in a chain of commerce and plaintiff will be any person that from costumer to bystander which used the product has a cause of action against the manufacture of the product and the harm was foreseeable use or misuse of the product.

Here Paul purchased a box of the product from DishWay, so he was the right plaintiff and the product was defective since he got sick after a normal use of the product which was washing the pots with it before preparing the meal and it was totally foreseeable using the dish washer in this way.

Thus Paul has a cause of action under the product liability against the DishWay.


Manufacturing defect

The product came in the chain of commerce exactly as the manufacturer expected but it was defective.

Here Paul will argue that Dishway knew that the cleaning agent cause severe stomach pain but they still entered the product in the commerce and though Dish Way may arguing that all detergent products if congested will cause the stomach pain but it is totally usual to wash the dish with detergent and Paul did not ingest the product and simply washed the pots and the product as the Dishway sent into the commerce was defective.

Thus Paul has a cause of action for strict liability under the manufacturing defect.

Design defect


the product was came our from a manufacturer not exactly as it was supposed too and there was a safer and cost efective product that could manufacturer effectively produce. 

Here Paul will argue that Dishway knew that the cleaning agent cause severe stomach pain but they still entered the product in the commerce and though Dish Way may arguing that all detergent products if congested will cause the stomach pain but it is totally usual to wash the dish with detergent and Paul did not ingest the product and simply washed the pots but Paul will argue that Dishway could simply product a safer product that was not be dangerous and could do test it before sending it into the commerce but the product did not test and that is way it is defective.

Paul has a cause of action under the design defect.


Fail of warning instruction

The manufacture needs to warn regarding the danger the product may have in a way that any consumer or bystander reasonably understood and readable the instructions of use by putting the label and warning on the product.

Here **as the fact says Dshway also failed to put instructions suffice to put the user under warning** that residue of the detergent will makes them sick and thus he breach this duty as well. 




Conclusion

Paul has cause of action under strict product liability against Dishway under theory of both **abnormally dangerous activity** and strict product liability. 

Misrepresentation

When defendant fraudulently state a fact that is not a true and did not disclose the material fact

in cause of action and the other party relies on it will be liable is the cause of action.

Here Paul has a cause of action under misrepresentation because Dishway breached his duty by advertising a dangerous product while he knew that it cause severe stomach pain when it ingested but they advertised it as "a revolutionary, safe product with the most powerful cleaning agent ever" while it was totally false.

Paul has a cause of action against Dishway under the misrepresentation theory too.

Negligence

In order a person sue someone under the negligence he needs to prove the duty, breach, actual cause and proximate cause and damages.

Any person has a duty of act as a reasonable prudent person to all foreseeable plaintiffs. (Cardozo view). Under the (Andrew view) the duty of care is owed to everyone.

Paul also can sue the Dishway under negligence theory and as the Dishway breach his duty to users of the product and was actual and proximate cause of Paul's damages.



Question #2 Final Word Count = 910

END OF EXAM