

# Case study on law

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## **Cleveland v. Harrison Manufacturing**

As the lawyer for the defendant, the impact of the Cleveland decision will relieve the defendant from any liability to Ms. Plaintiff. The issue in this case is whether or not defendant is liable to Ms. Plaintiff for selling a product that is unfit for use as a mouth guard designed for boxing. Basic is the rule that the plaintiff who suffered negligence by using a product must be able to prove that he suffered damage from the failure of the defendant to fulfill an expected standard of care in the creation of a product.

Ms. Plaintiff can file a successful claim against the defendant by establishing the four elements of ordinary negligence action: 1.) the duty or obligation of the defendant to the plaintiff; 2.) failure of the defendant to comply with such duty; 3.) failure of the defendant to fulfill the duty resulted to an injury; and 4.) plaintiff suffered actual loss or damage. In the same manner, the case of MacPherson v. Buick Motor Co. stated that a manufacturer will only be held liable for the negligent construction of a product regardless of the absence of privity of contract of the parties, provided that negligence was established.

Applying the case law in this particular case, it was shown that the defendant had given sufficient warning to its consumers that their product is made of highest quality materials and has met the design standards in manufacturing the product as approved by federal agencies to ensure quality control. In addition, such warning is considered as due notice given to their clients that it cannot assume liability for any injury that may result while using the product. By giving such warning or notice to their clients such as Ms. Plaintiff, they are given the free choice at their own discretion to decide if the product

is harmful or not.

Hence, the decision of the Cleveland case will benefit the defendant in the sense that being the manufacturer of the product, it cannot be held liable for any injury caused to its clients since the clients have been well-informed beforehand that the product may be used at their own risk. The next step to determine is whether the defendant breached the duty to Ms. Plaintiff by determining whether the defendant's conduct is negligent. The formula that will be applied is an objective test that will resolve the question issue on whether the defendant was negligent in taking the necessary steps to avoid the peril to the consumers that a reasonable person could have foreseen. In this given case, it was impossible for the defendant to have foreseen the hazard brought about by the chemical " yucko" found in its product. Hence, the conduct of the defendant cannot be considered to breach by reference to the hypothetical reasonable man may have foreseen on the possibility of harm to its consumers. In fact, defendant had given out several advertisements in trade publications to make public warning of the dangers that may be caused in using the mouth guards that contain the chemical " yucko". The defendant acted in good faith by informing the sellers to return their products them to claim full refund. Based on this action on the part of the defendant, there was no negligence on its part after giving a timely warning or notice to its consumers. In conclusion, the impact of the Cleveland decision is beneficial for the defendant since the design of its product was originally intended to protect the boxers and not meant to cause an injury to the life and limb of its users. In addition, Ms. Plaintiff was not able to clearly establish the negligence of the defendant.