November 10, 2008

Ms. Carol Stoudt

3000 N. Reading Rd.

Adamstown, PA 19501

**Re: Proximate Cause**

Dear Ms. Stoudt:

Being a student of the Classics, you probably have come upon proximate cause debates in Greek mythology. For example, in the Trojan War, many citizens of Troy blamed Paris for Hector’s death, even though it was Achilles who actually killed Hector. A causal link does exist between Paris’ abduction of Helen, the Trojan War, Achilles fighting Hector, and Hector’s death. However, the question of proximate cause is: in this causal chain of events, can Troy legally blame Paris? In order for Paris to be deemed the proximate cause of Hector’s death (at least in a Pennsylvania court) his actions must meet a two prong test. First, Paris must have been able to reasonably foresee that when he abducted Helen, the Trojan War would ensue. Additionally, Paris must have been able to foresee that this war would result in Hector’s death. This limitation of blame in the causal chain is proximate cause. While Paris might have reasonable foreseen that abducting Helen would cause a war, he could not have foreseen that Hector would have been killed in this war. Thus Paris is not the proximate cause of Hector’s death.

The main issue regarding Paris’ blame, and Buildit’s negligence, in your case, is the issue of foreseeability. Pennsylvania law will not hold an actor liable for a third party’s actions if the first actor could not have foreseen their negligent actions would enable this type of harm. More simply put, Paris can’t be held legally liable for Hector’s death because although he might have been able to foresee a war breaking out in response to his abduction of Helen, it would not have been foreseeable to Paris that this war would have caused Achilles to kill Hector.

Unlike Paris’ situation, your case satisfies the two prong test of proximate cause. Buildit’s habit of leaving the keys in the construction equipment, which were easily accessible, began a causal chain of events that led to your injuries. Additionally, Buildit had knowledge that college students had driven the construction equipment before and that college students had been drinking around the equipment. Given this knowledge Buildit should have foreseen not only that their equipment was likely to be stolen but that it would likely be stolen by freshmen who would be incompetent drivers. Because of this, Buildit could have foreseen the causal chain of events that led to the injuries you suffered. Since Buildit could have reasonable foreseen not only that their vehicles were likely to be stolen but that they were likely to be stolen by incompetent drivers, their actions are the proximate cause of your injuries, and, while Hector’s estate could not have sued Paris under Pennsylvania law, you can certainly sue Buildit.

Sincerely,

Partner

bcc: Associates #294 & #341