

[Products Liability Law Daily Wrap Up, SUPPLY CHAIN LIABILITY ISSUES —SPORTS AND RECREATIONAL EQUIPMENT—D. Ariz.: Amazon.com not liable for fire caused by hoverboards sold by third-party vendor, \(Sept. 30, 2019\)](#)

Products Liability Law Daily

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By Georgia D. Koutouzos, J.D.

The online retailer did not participate significantly in the stream of commerce that delivered the at-issue products and exercised an insufficient degree of control over them.

The Arizona federal court granted summary judgment favoring Amazon.com on products liability and negligence claims against the online retail giant by the homeowner's insurer for an individual whose home had sustained significant damage when two hoverboards that had been purchased through the online retailer caught fire as they were charging. Because the hoverboards had been sold by a third-party vendor, Amazon was not a "seller" or "manufacturer" under Arizona law and owed no duty to the buyer upon which liability could be based, the court reasoned (*State Farm Fire and Casualty Co. v. Amazon.com Inc.*, September 26, 2019, Teilborg, J.).

An individual ordered two hoverboards from a third-party vendor through Amazon.com and subsequently sold the products to another consumer. The buyer took the hoverboards home and, while they were charging, their batteries burst into flame and ignited a fire that caused severe damage to the buyer's home. His homeowner's insurer, State Farm Fire and Casualty Co., covered the losses and filed suit against Amazon and the third-party vendor as the buyer's subrogee, alleging claims of strict products liability and negligence under Arizona law.

Strict liability. Following the Restatement (Second) of Torts §402A, Arizona imposes strict liability on manufacturers and sellers of defective products that are unreasonably dangerous and cause physical harm to the consumer or his/her property. Amazon argued that it was entitled to summary judgment in its favor on the products liability claim because it merely provides services that connects consumers to vendors and, therefore, is not a "seller" or "manufacturer" under Arizona law. The insurance company countered that Amazon's significant role in the stream of commerce that delivers third-party vendors' products to consumers justified the application of strict liability to the online retail giant.

The court found that, on balance, State Farm failed to create a genuine issue of material fact as to whether Amazon had participated significantly in the stream of commerce that delivered the at-issue hoverboards to the consumer. Despite bearing some responsibility for third-party vendors' products during transit, Amazon provided no warranty for them, did not have a meaningful ability to inspect them for defects, never took title to them unless asked to, derived only a slight economic benefit from transactions involving them, exerted only indirect pressure on product design or manufacturing processes, and did not foster significant consumer reliance by facilitating the transaction.

Amazon was not strictly liable for harms caused by third-party vendors' products because it exercised an insufficient degree of control over such products. Consequently, the company's summary judgment motion was granted on State Farm's strict liability claim.

Negligence. As with its strict liability claim, State Farm bore the burden to establish the elements of negligence in the case. Nevertheless, the insurance company pointed to no public policy or common-law special relationship—aside from its argument that Amazon is a "seller"—that could give rise to a duty owed by the company toward the hoverboard buyer. Given the absence of any alternative showing by State Farm, the court's previous conclusion that Amazon had not significantly participated in the stream of commerce that delivered the

hoverboards to consumers meant that the insurer failed to make a showing sufficient to establish an element essential to its case. Therefore, Amazon's summary judgment motion also was granted on State Farm's negligence claim.

The case is No. [CV-17-01994-PHX-JAT](#).

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Companies: State Farm Fire and Casualty Co.; Amazon.com Inc.

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