

## [Products Liability Law Daily Wrap Up, TOP STORY—SUPPLY CHAIN LIABILITY ISSUES—Ohio App.: Amazon not liable as a ‘supplier’ of lethal caffeine powder, \(Feb. 20, 2019\)](#)

Products Liability Law Daily Wrap Up

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By Nicholas Kaster, J.D.

A compelling basis was not provided for extending the Ohio Products Liability Act's definition of a product "supplier" to subject a service provider such as Amazon.com, Inc. to liability for its very limited role in the sale of a product that ultimately caused a teen's death.

Amazon was not liable under Ohio's product liability laws for pure caffeine powder that had been purchased through its website because the e-commerce giant was not a "supplier" under the statute, an appellate panel in that state advised, affirming the trial court's grant of summary judgment in the company's favor (*Stiner v. Amazon.com, Inc.*, February 19, 2019, Schafer, J.).

A high school student died from acute caffeine toxicity after having ingested the "pre-workout" supplement Hard Rhino Pure Caffeine, a pure caffeine powder. The decedent's friend had purchased the caffeine powder through Amazon's website from a seller identified as The Bulk Source, a trade name under which the supplement wholesaler Tenkoris sold the powder. The Bulk Source fulfilled and shipped the order to the friend, who subsequently shared a portion of the powder with the decedent.

The deceased teen's father filed suit against Amazon and certain other named defendants, asserting that the company was liable as a supplier of the caffeine powder based on supplier negligence as stated in Ohio's product liability statute. Additionally, he stated three claims for products liability: (1) design defect; (2) inadequate warnings or instructions; and (3) non-conformance to representation. Those three claims impose liability on "manufacturers," defined as those engaged in a business to design, formulate, produce, create, make, construct, assemble, or rebuild a product or a component of a product.

The trial court granted Amazon's motion for summary judgment, finding as a matter of law that the company did not fit the definition of a "supplier" under Ohio law such that it was liable for compensatory damages based on products liability claims "as if it were the manufacturer of that product." Amazon did not install, repair, or maintain any aspect of a product and, therefore, did not fit the definition of a "supplier," the trial court held, noting that Tenkoris—and not Amazon—had been the "seller" of the caffeine powder and that Amazon had not distributed, leased, prepared, blended, packaged, or labeled the powder. Furthermore, Amazon had not otherwise participated in the placing of the caffeine powder into the stream of commerce, the trial court concluded.

**Contentions on appeal.** The decedent's father appealed, arguing that the trial court erred by applying an overly restrictive definition of "supplier" and by failing to view the facts in a light most favorable to him as the nonmoving party. Further, he contended that the trial court erred by determining, as a matter of law, that Amazon was not a "supplier" or "offeror" of the caffeine powder. Finally, he argued that the trial court failed to recognize factual disputes that precluded a grant of summary judgment.

**Disputed facts.** With respect to the father's contention that issues of fact precluded the grant of summary judgment and that the trial court failed to construe the evidence in his favor as the non-moving party, the appellate panel held that he failed to identify any factual dispute as to the specific actions that Tenkoris and Amazon had taken with respect to the transaction that resulted in the sale of the pure caffeine powder to the decedent's friend. Although the father asserted a "divergent view" of Amazon's role in the transaction, he did not

point to evidence relevant as to whether the company had otherwise participated in placing the caffeine powder in the stream of commerce, the panel opined.

**Product supplier.** Furthermore, the decedent's father did not present a compelling basis for extending the definition of "supplier" to subject a service provider such as Amazon to liability for its very limited role in the sale of a product, the panel found, adding that he failed to identify any instances where a court has applied the law with such an expansive interpretation of supplier that it could encompass imposing liability on Amazon under facts similar to those at issue in the case at bar.

The father's contention that Amazon was a supplier relied on allegations of the company's complicity in a scheme to market products to consumers, engender trust by implying the ensured safety of the products, and disregard evidence of known dangers. The facts in evidence did not support that contention, however, the panel held. Moreover, the father's public policy arguments failed because he could not point to evidence to demonstrate that holding Amazon liable would incentivize safety.

On the facts of the instant case, the appeals court declined to expand the definition of "supplier" to extend liability by shifting the burden to safeguard consumers against a third-party seller's products to an enterprise such as Amazon. As such, the panel ruled that the trial court correctly concluded that the company met its burden to show the absence of a genuine dispute as to its role in the at-issue transaction. Consequently, the trial court's grant of summary judgment favoring Amazon was affirmed.

The case is [No. 17CA011215](#).

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Companies: Amazon.com, Inc.

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