

PRODUCTS LIABILITY -- PROF. VANDALL

Jane lives in a large apartment complex. Two months ago she purchased a Cerprize washing machine from Quality Sales. Yesterday, Alice, who lives in the apartment next to Jane, asked if she could use Jane's washing machine because Alice's washer was broken. Jane said yes, and added that Alice should be careful because Jane had received a tingle (slight shock) several times when she used the Cerprize.

Alice used the washer in Jane's apartment. When Alice went to remove her clothes from the Cerprize, she received a tremendous electrical shock that threw her to the ground and knocked her unconscious. Alice pulled the Cerprize over as she fell. The water ran out of the machine onto the floor and into the hallway.

Tom lives on the same floor of the apartment building. He saw the police and ambulance driver at Jane's apartment. He went to see what was happening and slipped on the water in the hallway. Alice and Tom each have medical bills in excess of \$1,000.00.

The Cerprize was manufactured by the Revolutionary Enterprise Department (RED) in China. Surfco of California manufactured the rubber parts for the Cerprize. RED designed the rubber parts for the washer, however. Surfco shipped the completed rubber parts to China where the machine was assembled by RED.

Détente-Flash of New York imported the machines from China into the U. S. and distributed them. Quality Sales purchased 25 Cerprizes from Détente-Flash and sold one to Jane.

Advertisements for the Cerprize were carried in the newspapers and paid for by Quality Sales. They said: "The Cerprize is a compact washing machine. Made by RED, it will make your clothes white and bright. This small wonder is perfect for your cottage, apartment or home." The pamphlet accompanying the machine said the same.

Quality Sales saw the Cerprize at a trade convention in Miami. The machines were shipped by Détente-Flash to Quality Sales in little red boxes that measured two feet by two feet by three feet. Quality sold the machines in the sturdy little boxes. One machine was, of course, on display at Quality Sales.

All products imported into the U. S. are inspected by the U.S. Department of Imports. U.S.D.I. approved the Cerprize.

An expert has examined Jane's Cerprize and will state that the rubber fittings that cover the bolts in the bottom of the tub permitted water to leak into the electric motor. The tub holds the clothes and water. The motor is located below the tub.

Purchasers Union (P.U.) tested the Cerprize and gave it a one star rating. One star means acceptable. The next lower rating is unacceptable. Three stars is the best rating. P.U. does not permit manufacturers to use P.U. ratings in their promotional material. P.U. carries no ads and is supported solely by subscriptions.

Discuss Alice's and Tom's causes of action in negligence and implied warranty (tort). Do not discuss the U.C.C. or section 402 A of the Restatement Second of Torts. You are not bound by the law of any one state. Do not discuss a suit against Jane. Quality Sales, Jane, Alice and Tom are located in the same city and state.

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Products Liability
Sample Exam Question