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Amazon May Still Face La. Claims Over Battery Charger Fire

By **Emily Field**

Law360 (November 26, 2024, 6:02 PM EST) -- A Louisiana federal judge has cut out some claims in a suit brought by a man who died in a fire allegedly caused by a defective battery charger sold on Amazon by a Chinese company, but said the online retailer should still face some claims under state law since it stored, labeled and shipped the charger.

U.S. District Judge David Joseph said Monday that under the Louisiana Products Liability Act, a seller doesn't need to have the title to a product in order to be its distributor. There are several reasons why, the judge said, one of which is that there's nothing in the law that makes it known that "distributor," as a word, has a special meaning. If the state legislature had meant it to have a technical definition, it would have done so, he said.

The law's intent and history further suggest that the word should have a broader meaning, the judge said.

Judge Joseph's **order** also lines up with how the state's high court has answered questions in this case about how the distributor should be interpreted, he said.

"Specifically, the Louisiana Supreme Court stated that an operator of an online marketplace, such as Amazon, should bear the loss for injury caused by a defective product if it is the alter-ego of a foreign manufacturer," the order said.

"At the time of [customer Archie Pickard's] purchase, there were no safety-related reviews or reports for the [Amazon Standard Identification Number] assigned to the Jisell four-slot battery charger," the judge said. "However, there were three negative consumer safety reviews on a similar six-slot battery charger, which bore a different ASIN, but was also manufactured and 'sold by' Jisell."

Additionally, Amazon is one of the largest global retailers and can control its third-party sellers, the judge said. The evidence makes it clear that Amazon does have control over its third-party vendors in various ways, he said.

For example, sellers rely on Amazon's platforms to sell their products, the judge said.

"Here, Amazon has not presented the court with any evidence regarding the percentage of Jisell's domestic sales that occur through Amazon's platform," he said. "If, for instance, ninety five percent of Jisell's sales occur through Amazon, this would suggest that Amazon has a considerable amount of control over Jisell."

The judge also said that the Pickard estate had established evidence to make a factual, material dispute that Amazon may create warranty duties for third-parties, like Jisell.

"Stated differently, the express terms of the [Amazon Services business solutions agreement] provide substantial evidence that it is actually Amazon that creates the warranties and then contractually passes on the cost of such warranties to its third-party sellers," the opinion said.

The judge did dismiss the Pickard estate's non-manufacturer seller liability and negligent undertaking claims. He said the family had failed that show that Pickard relied on any promises made by Amazon when he decided to buy the charger.

"Nor is Mr. Pickard's daughter's affidavit alone sufficient to create a genuine dispute of fact regarding this specific transaction," the opinion said.

Representatives for the parties didn't immediately respond to requests for comment on Tuesday.

The Pickard estate is represented by Richard W. Mithoff and Janie L. Jordan of Mithoff Law, and Nicholas M. Bruno of Beck Redden LLP.

Amazon is represented by Douglas J. Cochran and Walter F. Metzinger III of Stone Pigman Walther Wittmann LLC, and William Brendan Murphy of Perkins Coie LLP.

The case is Pickard et al. v. Amazon.com Inc et al., case number 5:20-cv-01448 in the U.S. District Court for the Western District of Louisiana.

--Editing by Adam LoBelia.

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