

## **Amazon, Consumer Safety, and Third Party Product Liability**

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### **I. Introduction**

More than 310 million individuals shop on the online retail platform Amazon,<sup>1</sup> a virtual marketplace that sells a variety of goods from food items to crafting supplies each year.<sup>2</sup> In 2000, six years after its founding, Amazon opened its platform to third party sellers.<sup>3</sup> These independent sellers enjoy Amazon's loyal customer base and the ease of selling on the platform, but there have been some recorded instances where consumers were injured due to defective third party products.

An interesting dilemma is raised in this circumstance: Who is liable for these defective products and subsequent consumer injury, third party sellers or Amazon? Amazon directs the customer to contact the seller directly, but this is not always effective, because contact information is not listed on each product and there have been instances in which the seller has disappeared from Amazon altogether.<sup>4</sup> This very issue has plagued many consumers and led to litigation efforts that have attempted to recover damages and hold Amazon liable as a seller of these defective products.<sup>5</sup>

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<sup>1</sup> CapitalOne Shopping Rsch., *Amazon Statistics* (last updated Nov. 2025), <https://capitaloneshopping.com/research/amazon-statistics/>.

<sup>2</sup> Eric Chaffin & Steven Cohn, *A Stream of Liability: As Online Commerce Continues to Dominate, Holding Internet Retailers Accountable for Dangerous Products Is Crucial to Protecting Consumers*, 57 Am. Ass'n Just. 20 (2021).

<sup>3</sup> Paolo Aversa et al., *Customer Complementary in the Digital Space: Exploring Amazon's Business Model Diversification*, 54 Long Range Plan. 1 (2021).

<sup>4</sup> Chaffin & Cohn, *supra* note 2, at 21.

<sup>5</sup> Zoe Gillies, *Amazon Marketplace and Third-Party Sellers: The Battle over Strict Product Liability*, 54 Suffolk U. L. Rev. 87 (2021).

As such, courts should reclassify Amazon as a seller for cases of product liability. This will hold the company responsible for defective third party products sold on their marketplace.<sup>6</sup> This article further asserts that the decision in *Oberdorf v. Amazon* (2019) highlights the growing need for stricter uniform liability standards to protect American consumers.

## II. Consumer Complaints

On December 2, 2014, Heather Oberdorf purchased a collar for her dog on Amazon through a third party seller called “The Furry Gang.”<sup>7</sup> Just over a month later, Oberdorf used the collar to take her dog for a walk.<sup>8</sup> Unfortunately, the D-ring on the collar broke, causing the retractable leash to recoil into Oberdorf’s eyeglasses, permanently blinding her in the left eye.<sup>9</sup>

Heather Oberdorf attempted to contact the third party seller, but they had disappeared—an issue other shoppers have reportedly faced with other independent vendors on the Amazon marketplace.<sup>10</sup> In response, Oberdorf filed a complaint against Amazon for “strict product liability, negligence, breach of warranty, misrepresentation, and loss of consortium.”<sup>11</sup>

Amazon responded to Oberdorf’s lawsuit by claiming the platform is simply a marketplace for the transaction between the third party seller and the buyer.<sup>12</sup> In other cases, Amazon has also argued it is merely an advertiser rather than the seller, thus demonstrating a pattern of deflected liability.<sup>13</sup> In these other litigative efforts, Amazon has cited Section 230 of the Communications Decency Act in their defense, which is a federal law that prevents providers from being held liable for information provided by a third party.<sup>14</sup> Though Amazon claims no

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<sup>6</sup> Margaret E. Dillaway, *The New “Web-Stream” of Commerce: Amazon and the Necessity of Strict Products Liability for Online Marketplaces*, 74 Vand. L. R. 187 (2021).

<sup>7</sup> *Oberdorf v. Amazon.com, Inc.*, 930 F.3d 136, 142 (3d Cir. 2019).

<sup>8</sup> *Id.* at 140.

<sup>9</sup> *Id.*

<sup>10</sup> Dillaway, *supra* note 6, at 209–10.

<sup>11</sup> *Oberdorf*, 930 F.3d at 142.

<sup>12</sup> Dillaway, *supra* note 6, at 189.

<sup>13</sup> Dillaway, *supra* note 6, at 205.

<sup>14</sup> Communications Decency Act of 1996, 47 U.S.C. § 230.

responsibility for these consumer injuries, courts are slowly adapting and beginning to hold Amazon liable for its role in these defunct independent seller transactions.<sup>15</sup>

### III. *Oberdorf v. Amazon*

United States District Court for the Middle District of Pennsylvania sided with Amazon in *Oberdorf v. Amazon* (2019), granting the company summary judgment.<sup>16</sup> The court found that Pennsylvania's strict product laws did not classify the platform as a seller.<sup>17</sup> Heather Oberdorf then appealed to the Third Circuit Court of Appeals, and this court vacated the summary judgment, holding Amazon strictly liable for Oberdorf's injuries.<sup>18</sup> The Third Circuit Court applied the four factor Francioni test, established in *Francioni v. Gibsonia Truck Corp.* (1997).<sup>19</sup> The test determines whether strict liability is applicable based on four factors, including whether Amazon was the only party available to solve the problem and if imposing this liability incentivizes consumer safety.<sup>20</sup> Following the Third Court's decision, Amazon petitioned for a rehearing en banc and the case was vacated.<sup>21</sup>

While there is no national ruling on Amazon's product liability in regards to third party sellers on its platform, *Oberdorf*, among many other cases, has begun setting precedent for future consumer litigation against Amazon.<sup>22</sup> In such cases, Amazon has begun to lose its protected status under the Communications Decency Act, and various U.S. state courts have begun ruling that the company is responsible for defective products sold on their online platform.<sup>23</sup> Though these rulings have been in favor of protecting consumer rights with increased frequency, there

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<sup>15</sup> Dillaway, *supra* note 6, at 207.

<sup>16</sup> Hon. Meredith Jury, *Oberdorf v. Amazon.com, Inc.* (3rd Cir.), Cal. Law. Ass'n, <https://calawyers.org/business-law/oberdorf-v-amazon-com-inc-3rd-cir/>.

<sup>17</sup> *Oberdorf v. Amazon.com, Inc.*, 930 F.3d 136, 142 (3d Cir. 2019).

<sup>18</sup> Jury, *supra* note 16.

<sup>19</sup> *Francioni v. Gibsonia Truck Corp.*, 372 A.2d 736 (1997).

<sup>20</sup> *Id.*

<sup>21</sup> Jury, *supra* note 16.

<sup>22</sup> Gillies, *supra* note 5, at 90.

<sup>23</sup> Chaffin & Cohn, *supra* note 2, at 22, 24.

remains a need for national precedent to be set to ensure consumer protection against third party injury.

#### **IV. Consumer Safety at the Federal Level**

Consumer safety is a pressing issue in an online market dominated by the Amazon marketplace. In issuing a decision and order requiring the platform to bear responsibility for recalling defective third party products, the Consumer Product Safety Commission has spearheaded protecting consumers safety from retail giants like Amazon.<sup>24</sup> According to the decision, more than “400,000 hazardous items” have been sold to consumers through Amazon’s marketplace.<sup>25</sup> Governmental agencies should continue to pass uniform stringent regulation across the nation to ensure consumer safety for the long term.

The Third Circuit Court of Appeals’ original ruling in *Oberdorf* and the Consumer Product Safety Commission’s decision and order provide an important foundation for subsequent cases and policies centered on protecting consumers who shop on Amazon’s marketplace.<sup>26</sup> Both remind the public of the importance of product liability for consumer protection.

#### **V. Conclusion**

Amazon sells approximately \$1.214 million in merchandise every minute, and many consumers turn to the platform for their shopping needs.<sup>27</sup> The platform’s marketplace boasts 338 million items sold by third party sellers,<sup>28</sup> though this statistic is overshadowed by reports of

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<sup>24</sup> U.S. Consumer Prod. Comm’n, *CPSC Finds Amazon Responsible Under Federal Safety Law for Hazardous Products Sold by Third-Party Sellers on Amazon.com* (July 2024), <https://www.cpsc.gov/Newsroom/News-Releases/2024/CPSC-Finds-Amazon-Responsible-Under-Federal-Safety-Law-for-Hazardous-Products-Sold-by-Third-Party-Sellers-on-Amazon.com>.

<sup>25</sup> *Id.*

<sup>26</sup> Gillies, *supra* note 5, at 90.

<sup>27</sup> CapitalOne Shopping Rsch., *supra* note 1.

<sup>28</sup> CapitalOne Shopping Rsch., *supra* note 1.

consumer injury from these sellers and their subsequent inability to contact the responsible vendor.<sup>29</sup>

Customers assume Amazon is liable for defective products, but the online retailer claims to merely be a marketplace or an advertiser, not a seller.<sup>30</sup> This conflict in accountability creates a serious issue for injured consumers; over the past decade, many individuals have sued Amazon for strict liability and negligence, and various courts across the U.S. have slowly begun holding Amazon liable for their failure to assume liability.<sup>31</sup> While there is currently no national standard for these third party suits, the Consumer Product Safety Commission is pushing to hold Amazon liable at the national level through product recalls.<sup>32</sup> In the federal government, the judiciary should continue passing precedent focused on protecting consumers on Amazon's marketplace, and the executive and legislative branches should follow suit with relevant policy and legal safeguards in the interest of consumer safety.

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<sup>29</sup> Dillaway, *supra* note 6, at 209–10.

<sup>30</sup> Chaffin & Cohn, *supra* note 2, at 22.

<sup>31</sup> Dillaway, *supra* note 6, at 190.

<sup>32</sup> U.S. Consumer Prod. Comm'n, *supra* note 24.