STATE OF MINNESOTA
IN COURT OF APPEALS
A18-0375

Sonja Jeanne Timmons, individually, and as mother and natural guardian of Jadyn Bentlie Haugen, Kaily Marie Timmons and Makena Joy Haugen,
Appellant,

vs.

Minnesota Energy Resources Corporation, et al., Defendants,

Jerrold D. Parker a/k/a Jerry Parker,
Respondent,

and

Minnesota Energy Resources Corporation, et al., Defendants and Third Party Plaintiffs,

vs.

Troy Haugen, Third Party Defendant.

Filed September 24, 2018
Reversed and remanded
Smith, Tracy M., Judge

Jackson County District Court
File No. 32-CV-16-204

Matthew J. Barber, James S. Ballentine, Courtney A. Lawrence, Schwebel, Goetz & Sieben, P.A., Minneapolis, Minnesota (for appellant)

William L. Moran, Kari L. Gunderman, HKM, P.A., St. Paul, Minnesota (for respondent)

Considered and decided by Kirk, Presiding Judge; Reilly, Judge; and Smith, Tracy M., Judge.

U N P U B L I S H E D O P I N I O N

SMITH, TRACY M., Judge

Appellant Sonja Timmons, individually and on behalf of her minor children, sued respondent Jerrold Parker after an open-ended gas line caused an explosion in a house sold by Parker to third-party defendant Troy Haugen. Parker moved for summary judgment, which the district court granted on the grounds that, as a matter of law, (1) Parker owed no duty to Timmons or her children and (2) liability was precluded by the vendor rule, which generally provides that prior owners of real estate are not liable for injuries caused by conditions existing at the time the purchaser took possession. We reverse and remand.

FACTS

Parker disputes many of the facts alleged by Timmons. For purposes of summary judgment, however, "all facts and the inferences arising from them must be considered in the light most favorable to the non-moving party." *Montemayor v. Sebright Prods., Inc.*, 898 N.W.2d 623, 625 (Minn. 2017). We describe the facts in accordance with this rule.

Rental of the House

In July 2011, Timmons and Haugen reached out to Parker, seeking to rent a home for themselves and the minor children. Parker said he would prefer to sell the house instead of renting it, and the parties eventually agreed that Timmons and Haugen would rent the house for six months and then purchase it.

Before agreeing to rent the house, Timmons and Haugen toured it on July 8. Haugen and Parker talked in the kitchen while Timmons and two of the children walked around the house. At the time of this walk-through, the house's existing gas stove was disconnected

from the gas line and had been pulled away from the wall, making the gas line visible for inspection. Haugen told Parker that the gas stove could be removed from the house because he planned to install an electric stove in its place. Parker replied that the gas stove went with the house, so Haugen should just move it to the basement. Parker also said that he would "take care of the [gas] line, cap everything off, [and] make sure everything was safe."

Timmons and Haugen both looked at the gas line on July 8. Timmons could not tell whether the line was capped or uncapped at the time, nor did she ever do anything after moving in to verify whether the line had been capped. Haugen also could not tell whether the line was capped on July 8 because he did not know what a capped line is supposed to look like. However, he assumed, based on Parker's statement that he would cap the line, that the line was uncapped at that time.

Timmons, Haugen, and the children moved into the house the weekend of July 23. Before they moved in, a Minnesota Energy Resources Corporation employee came to the house and activated the gas service. When they moved in, Haugen moved the gas stove to the basement of the house and, with the assistance of his brother-in-law, moved an electric stove into the empty space in the kitchen. When he did so, Haugen did not see any changes to the gas line, but he was not paying attention to it and "assumed it was taken care of."

Purchase of the House

On December 29, 2011, Haugen executed a purchase agreement for the house to buy it for $25,000 on a contract for deed. As relevant to this case, the agreement said, "Buyer has been made aware of the availability of property inspections. Buyer Declines

to have a property inspection performed at Buyer's expense." Haugen had considered getting a home inspection, but chose not to do so after Parker said an inspection was not needed. The purchase agreement also said, "This Purchase Agreement, any attached exhibits and any addenda or amendments signed by the parties shall constitute the entire agreement between Seller and Buyer and supersedes any other written or oral agreements between Seller and Buyer." In February of 2012, Haugen and Parker executed a contract for deed. That contract said:

> Seller shall be free from liability and claims for damages by reason of injuries occurring on or after the date of this Contract to any person or persons or property while on or about the Property. Purchaser shall defend and indemnify Seller from all liability, loss, costs and obligations, including reasonable attorneys' fees, on account of or arising out of any such injuries. However, Purchaser shall have no liability or obligation to Seller for such injuries, which are caused by the negligence or intentional wrongful acts or omissions of Seller.
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> . . . .
>
> The above-described real estate, structures, dwellings, improvements, fixtures, and personal property are not new, and are being purchased "AS IS." ANY WARRANTIES OF PHYSICAL CONDITION OF THE REAL PROPERTY, PERSONAL PROPERTY, DWELLINGS, STRUCTURES, IMPROVEMENTS, AND FIXTURES CONTAINED IN THIS CONTRACT FOR DEED, OR EXPRESSED PREVIOUSLY IN WRITING, OR ORALLY ARE VOID. Sellers shall have no further responsibility or liability with respect to the condition of this real estate.

At some point after Haugen executed the contract for deed, Timmons and Haugen purchased a new electric stove. The record does not indicate that Timmons or Haugen

made any observations about the state of the stove gas line when the first electric stove was removed and the new one installed.

The Explosion

On September 14, 2012, Haugen wanted to turn on the furnace and went down to the basement to open the valve for the furnace gas line. The previous September (while Timmons and Haugen were still renting the house), Haugen had turned on the furnace for the first time by simply switching the thermostat over from "cool" to "heat"; he had not had to do anything with a gas valve. On September 14, 2012, however, Haugen assumed that he had shut off the gas to the furnace the previous spring because it was his usual practice to do so, and he thus believed he needed to reopen the gas line to run the furnace.

In the basement, Haugen saw a closed valve, opened it, went back upstairs, set the thermostat to heat, felt heat coming out of the vents, and then went to bed. Unfortunately, Haugen had mistakenly opened the valve to the uncapped gas line in the kitchen.

The next morning, Haugen got up and went to work. Later that morning, Timmons got up and lit a cigarette in the living room. Within a couple of seconds, an explosion occurred, burning Timmons and the three children.

Legal Action

Timmons filed four lawsuits, one for herself and one for each of the three children. Minnesota Energy Resources Corporation (the gas provider), Chevron Phillips Chemical Company, LLC (the gas-odorizer[1] supplier), Don Paplow d/b/a Don's Plumbing & Heating

[1] A gas odorizer is a chemical that adds a scent to a gas so that the gas can be more easily detected.

(the furnace servicer), and Parker were named as defendants. Parker impleaded Haugen as a third-party defendant, alleging that Haugen had a duty under the contract for deed to defend and indemnify him from all liability. The cases were removed to federal court, consolidated, and ultimately remanded to state court. The state court then entered an order approving settlement of the claims against the three corporate defendants, and Timmons stipulated to dismissal of her claims against those parties.

Parker moved for summary judgment on the claims against him, and the district court held a hearing on that motion. The district court then granted the motion, determining that, as a matter of law, the vendor rule precluded liability and Parker did not owe a duty to Timmons. Timmons appealed, but this court noted that it was unclear from the record whether final judgment had been rendered on the claims against Paplow and Parker's third-party claim and dismissed the appeal as premature. The district court then dismissed the claim against Paplow pursuant to a stipulated dismissal, and Timmons again appealed. This court noted that the third-party claim against Haugen had still not been resolved and again dismissed the appeal as premature. The parties then agreed that Parker's claim against Haugen was moot in light of the summary-judgment decision, and the district court dismissed that claim without prejudice.

Timmons appeals, challenging the grant of summary judgment in favor of Parker.

D E C I S I O N

On appeal from summary judgment, we review whether there are any genuine issues of material fact and whether the district court erred in applying the law. *STAR Ctrs., Inc. v. Faegre & Benson, L.L.P.*, 644 N.W.2d 72, 76 (Minn 2002). "We view the evidence in

the light most favorable to the party against whom summary judgment was granted. We review de novo whether a genuine issue of material fact exists. We also review do novo whether the district court erred in its application of the law." *Id.* at 76-77 (citations omitted).

Timmons argues that the district court erred in determining that Parker owed no duty and that the vendor rule forecloses liability. Parker disagrees, arguing that summary judgment was appropriate for the additional reasons that the "as-is" sale of the house to Haugen precludes any liability on Parker's part, Haugen's negligence was a superseding cause relieving Parker of any liability, and Timmons cannot establish proximate cause. We address each issue in turn.

I. A genuine issue of material fact exists regarding whether Parker owed a duty to Timmons and her children.

"Negligence is generally defined as the failure to exercise such care as persons of ordinary prudence usually exercise under such circumstances." *Domagala v. Rolland*, 805 N.W.2d 14, 22 (Minn. 2011) (quotation omitted). "The four elements of negligence are: (1) the existence of a duty of care; (2) a breach of that duty; (3) an injury; and (4) the breach of the duty being the proximate cause of the injury." *Engler v. Illinois Farmers Ins. Co.*, 706 N.W.2d 764, 767 (Minn. 2005). "[D]uty is generally a legal question for the court to decide," which we review de novo. *Montemayor*, 898 N.W.2d at 629. Timmons argues that the district court erred in holding that Parker owed no duty to her and her children.

Timmons first argues that Parker owed a duty as a landlord because Parker initially leased the house to her and Haugen. We disagree. Although Parker had a duty to keep the

house "in reasonable repair during the term of the lease," Minn. Stat. § 504B.161, subd. 1(a)(2) (2016), that duty ended when "the term of the lease" ended, namely, when Haugen bought the house in February 2012.

Timmons next argues that Parker owed a duty because he maintained a legal interest in the house after it was sold on a contract for deed. This court has previously held that the sale of property on a contract-for-deed basis is insufficient to support liability on the part of the vendor. *See Friberg v. Fagen*, 404 N.W.2d 400, 403 (Minn. App. 1987) ("The [vendors'] interest in the property was confined to bare legal title; they had no real authority or power to regain possession of the resort or exercise control over the premises."). This holding straightforwardly applies to this case to preclude Parker's legal interest in the house from giving rise to a duty to Timmons at the time of the explosion.

Timmons also argues that Parker owed a duty as a result of promising to cap the gas line and not doing so. "[G]enerally in law, we are not our brother's keeper. Inaction by a defendant . . . constitutes negligence only when the defendant has a duty to act for the protection of others." *Domagala*, 805 N.W.2d at 22-23 (citation and quotation omitted). Two theories of duty are relevant to this case. First, "general negligence law imposes a general duty of reasonable care when the defendant's own conduct creates a foreseeable risk of injury to a foreseeable plaintiff." *Id.* at 23. Depending on the circumstances, that general duty of reasonable care may include a duty to warn foreseeable plaintiffs of impending danger. *See id.* at 28-29. Second, a defendant owes a duty to a plaintiff when "the parties are in a special relationship and the harm to the plaintiff is foreseeable." *Id.* at 23.

The district court analyzed duty under the second theory, holding that the parties did not stand in a special relationship to each other at the time of the explosion. We agree with that conclusion. However, Timmons's claims against Parker are based on more than just his failure to cap the gas line. The claims are based on that failure, coupled with his promise to do so. In other words, the claims are based on the "defendant's own conduct," which, under the first theory, gives rise to a general duty of reasonable care if it "creates a foreseeable risk of injury to a foreseeable plaintiff." *See id.*

For reasons mostly addressed under different analytical frameworks in his briefs but nonetheless relevant here, Parker argues that, regardless of his alleged promise to cap the line and failure to do so, any risk of injury was not foreseeable, including because Haugen and Timmons should have seen and properly handled the observable uncapped gas line. Timmons challenges that assertion, arguing that the location and appearance of the gas line and their reasonable reliance on Parker's promise made the risk of injury foreseeable. Although duty is generally a legal question, "it is well established that foreseeability is a question for the jury if there is a specific factual dispute concerning . . . awareness of a risk." *Montemayor*, 898 N.W.2d at 629 (quotation omitted).

We conclude that, if a jury accepts Timmons's version of the disputed facts about Parker's conduct, it could reasonably conclude that his conduct "create[d] a foreseeable risk of injury to a foreseeable plaintiff," namely Timmons, Haugen, and their children. *See Domagala*, 805 N.W.2d at 23. That foreseeable risk in turn would give rise to a general duty of reasonable care on the part of Parker. We therefore conclude that the district court

erred when it held, on this disputed record, that Parker did not owe a duty of care to Timmons or her children as a matter of law.

II. A genuine issue of material facts exists regarding whether an exception to the vendor rule applies.

Having concluded that a genuine issue of material fact exists as to whether Parker owed a duty, we turn to the second basis on which the district court granted summary judgment: that the vendor rule precludes any liability Parker would have to Timmons. Timmons argues the district court erred in concluding that this case is subject to the vendor rule and that no exception to the rule applies. Whether the vendor rule forecloses liability on the part of Parker presents a question of law that we review de novo, but, in cases where foreseeability is reasonably disputed, summary judgment is inappropriate. *See Montemayor*, 898 N.W.2d at 629 (addressing foreseeability in products-liability case).

"The general rule is that a prior owner of real estate is not liable for injury to a purchaser or a third person caused by the condition of the premises existing at the time the purchaser took possession." *Carlson v. Hampl*, 169 N.W.2d 56, 57 (Minn. 1969); *see also* Restatement (Second) of Torts § 352 (1965) ("Except as stated in § 353, a vendor of land is not subject to liability for physical harm caused to his vendee or others while upon the land after the vendee has taken possession by any dangerous condition . . . which existed at the time that the vendee took possession."). That general rule is subject to an exception, however:

> [A] "vendor of land who conceals or fails to disclose to vendees any unreasonably dangerous condition, whether natural or artificial," may be liable for vendee and third person injuries if two conditions are met. The vendee must not know

> of the condition or the risk involved, and the vendor must "know" or "have reason to know" of the condition, realize the risks, and have reason to believe that the vendee will not discover the condition or realize the risk.

Friberg, 404 N.W.2d at 402 (quoting Restatement (Second) of Torts § 353 (1965)). "If the vendor actively conceals the condition, the vendor remains liable until the vendee discovers it and has reasonable opportunity to take effective precautions against it. Otherwise the liability continues only until the vendee has had reasonable opportunity to discover the condition and to take such precautions." *Id.* (emphasis omitted) (quoting Restatement (Second) of Torts § 353).

Timmons's initial argument on this issue is that the vendor rule should not be applied to this case at all because the facts are distinguishable from applicable caselaw. However, she did not raise this argument below. "A reviewing court must generally consider only those issues that the record shows were presented and considered by the trial court in deciding the matter before it." *Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988). We therefore decline to consider this argument on appeal.

In the alternative, Timmons argues that, if the vendor rule applies, its exception also applies. Timmons did raise this argument in the district court, so we will consider it on the merits.

The district court concluded that the exception to the vendor rule is inapplicable because: (1) Parker's disclosure of the fact that the gas line was not capped negated any claim that Parker concealed the gas line, (2) Haugen knew or had reason to know of the uncapped gas line, (3) Parker had reason to believe Haugen would discover the uncapped

gas line, and (4) Haugen had a reasonable opportunity to discover the uncapped gas line and take precautions. These reasons essentially parallel the prongs and subprongs of Restatement (Second) of Torts § 353, and we address each in turn.

We agree with the district court that no reasonable jury could conclude that Parker concealed the status of the gas line. In arguing the opposite, Timmons contends that "failing to follow through on his promise to cap the line, failing to disclose his failure three times, and convincing Haugen against getting an inspection" constitute concealment. But our caselaw and the Restatement are clear: concealment requires more than a failure to disclose or discouraging inspection; it requires "active" concealment. *See Friberg*, 404 N.W.2d at 402. Even viewing the evidence in the light most favorable to Timmons, the only active step Parker took was telling Haugen the house did not need a home inspection. But this statement in no way prevented Haugen from nevertheless deciding to obtain one. We therefore conclude that the district court did not err in holding that the vendor-rule exception is not applicable based upon a concealment theory.

A lack of concealment, however, is not the end of the inquiry. A vendor of land may also be liable if he "fails to disclose to [vendees] any [unreasonably dangerous] condition." *Id.* (alteration in original) (quoting Restatement (Second) of Torts § 353). The district court concluded that Parker disclosed the condition when he said on July 8, 2011, that the gas line was uncapped. Timmons argues that "[a] disclosure coupled with a promise to fix is not a disclosure of danger."

Viewing the evidence in the light most favorable to Timmons, we conclude that a genuine issue of material fact exists on this issue. Although no case in Minnesota has

squarely addressed this issue, comments to the Restatement (Second) of Torts § 353 express considerations relevant to this issue. The comments note that liability may arise when a vendor of land "deliberately states that the land is in safe condition when he knows it to be dangerous." Restatement (Second) of Torts § 353 cmt. d. Even under Timmons and Haugen's version of events, Parker admitted that the land was not safe; but Parker also promised that he would make the land safe (by capping the gas line) before Timmons and Haugen's lease began. This promise could be construed in a similar manner as if he had stated that the property was in fact safe. We therefore conclude that a reasonable jury could find that Parker failed to disclose the unreasonably unsafe condition of the gas line.

Our analysis of the first subprong of the Restatement—whether the vendee knew or had reason to know the condition or the risk involved—follows similar reasoning. A reasonable jury could conclude that Parker's promise to cap the line negated his disclosure—and therefore Haugen's knowledge—of the line's unsafe condition. Regarding whether Haugen had reason to know of the uncapped line, although Haugen twice installed new electric stoves in the kitchen, he stated in his deposition that he did not "know what [a capped gas line] [is] supposed to look like." Although one of Timmons's expert witnesses testified that Haugen "should be able to look at [the line] and see that there's not a cap on it," we must resolve all factual disputes in Timmons's favor, *see Montemayor*, 898 N.W.2d at 628, and assume that, even having the opportunity to view the gas line, Haugen would not be able to tell whether it was properly capped. We therefore conclude that a reasonable jury could find that Haugen neither knew nor had reason to know of the condition of the gas line.

We turn to the second subprong—whether the vendor knew or had reason to know of the condition, realized the risk, and had reason to believe the vendee would not discover the condition or realize the risk. All parties agree, for purposes of summary judgment, that Parker had knowledge of the gas line's uncapped status. The district court concluded, however, that Parker had no reason to believe Haugen would not discover it because of his July 8 disclosure. We disagree and conclude that genuine issues of material fact exist on the issue. The district court determined that "[t]he statement that [Parker] would cap the gas line indicated that . . . he had reason to believe that Timmons and Haugen were aware of it . . . since he told them about it." However, as discussed above, immediately after that statement, Parker promised to cap the line, and a reasonable jury could find that Haugen would believe the line was capped (and not discover the uncapped condition) based on this promise. Parker would thus have reason to believe that Haugen would not discover the dangerous condition of the gas line, satisfying the second subprong of Restatement (Second) of Torts § 353.

Finally, we address whether, even assuming the subprongs for the exception were met, a reasonable jury could conclude that, by the time of the explosion, Haugen did not have a reasonable opportunity to discover the condition and take precautions. The district court concluded that no reasonable jury could reach this conclusion because (1) Parker told Haugen that the line was uncapped and never told Haugen that he capped the line; (2) Haugen had the choice to have a home inspection prior to purchase; (3) Haugen operated the gas valves in the basement in the fall of 2011 and spring of 2012, giving him a chance to discover issues with the valves; and (4) Haugen lived in the house continuously

for over a year. We reject these reasons because they fail to view the evidence in the light most favorable to Timmons.

Regarding the first reason, as already noted, a reasonable jury could find that Parker's promise to cap negated any disclosure he made. As for the second reason—whether the option of a home inspection gave Haugen a reasonable opportunity to discover the state of the gas line—the facts present a question for a jury. It is for juries to decide "what is reasonable under the circumstances of a particular case," because that judgment "is more likely than the judicial judgment to represent the community's judgment of how reasonable persons would conduct themselves." *Hartfiel v. McLennan*, 430 N.W.2d 215, 224 (Minn. App. 1988) (quoting *Moning v. Alfono*, 254 N.W.2d 759, 763 (Mich. 1977)). Under the circumstances in this case, a jury could conclude that a reasonable, prudent person would not obtain a home inspection, and thus the mere option of obtaining one would not present a reasonable opportunity to discover the uncapped status of the gas line.

Finally, regarding reasons three and four, as discussed above, Haugen testified that, even if he had inspected the gas line, he would have had no way of telling whether it had been capped or not. Thus, regardless of his opportunity to inspect the gas lines or the fact that he had lived in the house for over a year, it is possible that he never would have discovered the dangerous condition of the line. Again, viewing the evidence in the light most favorable to Timmons, we conclude that a reasonable jury could find that Haugen did not have a reasonable opportunity to discover the uncapped gas line. We therefore hold that the district court erred when it granted summary judgment to Parker on the basis that the exception to the vendor rule did not apply as a matter of law.

III. The as-is clause of the contract for deed does not preclude Parker's liability to Timmons or her children.

Having concluded that summary judgment was inappropriate on the issue of duty and application of the exception to the vendor rule, we turn to other arguments Parker raises in favor of summary judgment. He first argues that the contract for deed said the property was sold "as is," making any further reliance on his promise to cap the gas line unjustified. The rights and obligations created by a contract are a question of law, which we review de novo. *See Linn v. BCBSM, Inc.*, 905 N.W.2d 497, 504 (Minn. 2018).

It is a foundational principle of contract law that generally, one must be a party to a contract to obtain rights or incur obligations under it. *See Caldas v. Affordable Granite & Stone, Inc.*, 820 N.W.2d 826, 832 (Minn. 2012) ("Generally, one who is not a party to a contract has no rights under the contract . . . ."); *Johnston v. Tourangeau*, 259 N.W. 187, 189 (Minn. 1935) (noting that "absent . . . assumption of duty under contract" a party owed no duty to another).

Timmons was not a party to the purchase agreement or the contract for deed. Therefore, whatever the contract for deed may say regarding the state of the property at the time of sale, that contract cannot impact her right to recover damages for injuries caused by the condition of the house. Although the contract for deed—which contains an indemnification clause—may impact Parker's third-party claim against Haugen, we take no position on that claim, which is not before us. But it does not impact Timmons's ability to rely on Parker's promise to her and Haugen to cap the line, his failure to do so, and his failure to warn, as a basis for negligence liability.

IV. A genuine issue of material fact exists regarding whether negligence on the part of others was a superseding cause.

Parker next argues that "Haugen's negligence is a superseding cause relieving Parker of any alleged liability." As with the issue of duty, on a motion for summary judgment on causation, "all facts and the inferences arising from them must be considered in the light most favorable to the non-moving party." *Montemayor*, 898 N.W.2d at 625.

> For an intervening cause to be considered a superseding cause, the intervening cause must satisfy four elements: 1) its harmful effects must have occurred after the original negligence; 2) it must not have been brought about by the original negligence; 3) it must have actively worked to bring about a result which would not otherwise have followed from the original negligence; and 4) it must not have been reasonably foreseeable by the original wrongdoer.

Canada ex rel. Landy v. McCarthy, 567 N.W.2d 496, 507 (Minn. 1997). "[I]t is well established that foreseeability is a question for the jury if there is a specific factual dispute concerning . . . awareness of a risk." *Montemayor*, 898 N.W.2d at 629 (quotation omitted).

We need only address the fourth prong of superseding cause here. A reasonable jury could find that Haugen's act of opening the valve to the uncapped line was foreseeable to Parker. The installed gas line had two valves, one for the furnace and one for the stove gas line. Those valves were close together, with the valve for the stove situated on a piece of piping coming off of the line for the furnace. A reasonable jury could find that this setup made confusion of the two lines foreseeable to Parker. We therefore conclude that summary judgment is not proper on his defense of superseding causation.

V. A genuine issue of material fact exists regarding whether the failure to cap the gas line was a proximate cause of Timmons's and her children's injuries.

Finally, Parker argues that Timmons's negligence claims fail as a matter of law because there is no genuine issue of material fact as to proximate cause. Again, when considering this issue, we view all facts and inferences in the light most favorable to Timmons. *See Montemayor*, 898 N.W.2d at 625.

"In the context of general tort liability, such as negligence actions, [the supreme court] long ago defined a proximate cause of a given result as a material element or a substantial factor in the happening of that result." *Frederick v. Wallerich*, 907 N.W.2d 167, 179-80 (Minn. 2018) (quotation omitted). Thus, the question is whether Parker's promise and failure to cap the gas line, followed by his failure to warn, were substantial factors in causing Timmons's injuries.

We have no hesitancy in concluding that there is a genuine issue of material fact on this question. While the supreme court has rejected but-for causation because "it converts events both near and far, which merely set the stage for an accident, into a convoluted series of causes of the accident," *see Lubbers v. Anderson*, 539 N.W.2d 398, 402 (Minn. 1995) (quotation omitted), this case does not involve an attenuated causal chain like the one at issue in *Lubbers*.

In *Lubbers*, the appellant led a group of snowmobilers toward a hazard and safely navigated the hazard, but those behind him were somehow injured because of the hazard. *Id.* at 400-01. In holding that the appellant was entitled to summary judgment, the supreme court observed that "[o]bviously something occurred behind [appellant]," but "[t]he record

. . . does not tell us anything about what that something was." *Id.* at 402. The court further noted that the first two people following made it past the hazard, and it was only the third follower that suffered any harm. *Id.* Thus, without information regarding what happened behind the appellant, "it is impossible to establish any link between [appellant's] conduct and the injuries sustained." *Id.*

The facts in this case, when viewed in the light most favorable to Timmons, on the other hand, make such a link clear. In July 2011, Parker promised to cap the gas line but then left it uncapped. A little over a year later, Haugen opened the valve to that gas line, erroneously thinking he was opening the valve for gas to the furnace. Timmons then lit a cigarette, and a gas explosion erupted. Parker's failure to cap the line is a "substantial factor" in this series of events. *See Frederick*, 907 N.W.2d at 179-80. We therefore conclude that there is sufficient evidence to create a genuine issue of material fact concerning whether Parker's negligence was a proximate cause of Timmons's injuries.

Reversed and remanded.