

# Intentional Torts

# Products Liability Exercise Part 1

You are a junior associate at a plaintiff-side firm. A partner at the firm has brought you in to work on an interesting new case. The potential plaintiff, a nine-year-old boy named Augustus Gloop, choked on a hot dog during lunch in his elementary school cafeteria. The child survived — thanks to a gym teacher’s training in first aid and CPR — but suffered serious injuries. His family is now interested in suing Oscar Mayer Weiner, the company that produced this hot dog.

The partner at your firm doesn’t typically litigate products liability cases, so she wants you to catch her up to speed. She’d like you to sketch out arguments supporting a failure to warn claim, a design defect claim, and a manufacturing defect claim. For each claim, provide an example of a piece of evidence that would help our client win. And let her know which claims have the best chance of success. On the failure to warn claim, you should know that Oscar Mayer Weiner will seek protection from the “learned intermediary” doctrine as the company does inform elementary schools that hot dogs are a choking hazard.

# Products Liability Exercise Part 2

You are a junior associate at a firm representing Oscar Mayer Weiner.

Same set of facts. A potential plaintiff, a nine-year-old boy named Augustus Gloop, choked on a hot dog during lunch in his elementary school cafeteria. The child survived — thanks to a gym teacher’s training in first aid and CPR — but suffered serious injuries. His family is now interested in suing Oscar Mayer Weiner, the company that produced this hot dog.

A partner at your firm would like you to sketch out arguments defending Oscar Mayer Weiner the plaintiff’s potential failure to warn claim, design defect claim, and manufacturing defect claim.

# Products Liability Exercise

**Manufacturing defect**

**Design defect**

--- Consumer expectations

--- Excessive preventable danger (requires reasonable alternative design)

**Failure to warn**

-----

**Defenses**

--- Not a prima facie case

--- Contributory or comparative negligence, assumption of risk

# Intentional Torts



**Strict Liability**

**Negligence**

**Intentional Torts**

# Structure for this Part of the Course

## Intentional Torts:

- Battery
- Assault
- False imprisonment
- Intentional infliction of emotional distress

## Defenses:

- Consent
- Self-defense
- Defense of property
- Necessity

# Garratt v. Dailey



# The Issue of Certainty

# Picard v. Barry Pontiac-Buick, Inc.

# Wishnatsky v. Huey