

Products Liability Defenses & Review

Products Liability Claims

1. ??????????????????????

2. ??????????????????????

3. ??????????????????????

Products Liability Claims

1. Manufacturing Defects
2. Design Defects
3. Failure to Warn

Elements of a Claim

Negligence

- Duty
- Breach
- Causation
- Harm

Strict Liability

- Defendant was engaged in the kind of activity where strict liability applies
- Causation
- Harm

Products Liability

- Defect
- Causation
- Harm

Speller v. Sears, Roebuck & Co.

“Refrigerator Fire”

Proving product defect without specific evidence

Incident that harmed the plaintiff:

- 1) was of a kind that ordinarily occurs as a result of product defect
- 2) was not solely the result of other causes

Jones v. Ryobi, Ltd.

“The Modified Printing Press”

Anderson v. Nissei ASB Machine Co.

“The Bottle-Making Machine that Amputated an Arm”

**How can you defend against a
strict liability or products liability
claim?**

How can you defend against a strict liability or products liability claim?

- Disprove elements of plaintiff's claim
- Affirmative defenses
 - Comparative negligence
 - Assumption of risk

Comparative Responsibility is Hard

Can a plaintiff be negligent for failing to discover a defect?

Restatement (Second) of Torts

Contributory negligence of the plaintiff is not a defense when such negligence consists merely in a failure to discover the defect in the product, or to guard against the possibility of its existence.

Restatement Third

[W]hen the defendant claims that the plaintiff failed to discover a defect, there must be evidence that the plaintiff's conduct in failing to discover a defect did, in fact, fail to meet a standard of reasonable care. In general, a plaintiff has no reason to expect that a new product contains a defect and would have little reason to be on guard to discover it.

Assumption of Risk

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~~Express (Disclaimers and waivers)~~

Implied (Knowingly encounter a danger)

In-Class Exercise