

Chapter 7

Wednesday, February 25, 2015

12:54 PM

- **Strict Liability**
 - Development of Strict Liability
 - Theory of strict liability started with Rylands v. Fletcher
 - **Other Applications**
 - **Wild Animals:** owners keeping wild animals are strictly liable
 - Domestic animals make the owner liable only if the owner knew the animal was dangerous
- **Product Liability**
 - Claim based on a manufacturer's breach of the reasonable standard of care
 - **Due Care** Must be exercised in:
 - Design, Materials, production process, assembling and testing, inspection and testing
 - Privity of Contract is not required
 - No privity of contract required between plaintiff and manufacturer
 - Liability extends to any persons injured by negligently made product
 - Misrepresentation
 - Occurs when fraud committed against consumer or user of product
 - Fraud must be made with knowing they are telling a lie with no regard for safety
 - Plaintiff does not have to show the product was defective
 - Strict liability holds people liable for results of their acts, regardless of their intentions or care
- **Strict Liability and Public Policy**
 - Consumers should be protected against unsafe products
 - Manufacturers and distributors should be liable to any user of the product
- **Requirements for Strict Liability**
 - Product must be in defective condition when sold
 - Defendant is in the business of selling the product
 - Product must be unreasonably dangerous
 - Plaintiff must be physically harmed
 - Defective condition must be proximate cause of injury
 - Goods are in substantially same condition
- **Proving a Defective Condition**
 - Plaintiff does not need to show what manner the product became defective
 - Plaintiff must show, at purchase, product was defective and "unreasonably dangerous"
 - **Unreasonably Dangerous:** Product was dangerous beyond the expectation of the ordinary consumer
 - A less dangerous alternative was economically feasible for the manufacturer but the manufacturer chose not to use it

dangerous

ing

exercise of reasonable care

y consumer

e manufacturer failed to produce it

- **Product Defects**
 - **Manufacturing Defects**
 - Occurs when a product "departs from its intended design even though all pos
 - **Design Defects**
 - Product is manufactured correctly
 - Test: Plaintiff must show defendants failure to use a reasonable alternative de
 - Risk-Utility Analysis
 - Consumer Expectation Test
 - **Warning Defects**
 - Content of Warning: Product is defective based on inadequate warning labels
 - Liability based on foreseeability that proper instructions/labels would have m
 - Obvious Risks
 - Foreseeable uses
- **Market Share Liability**
 - Liability when multiple defendants contributed to manufacture of same defective product
 - Each defendant is proportionately liable based on its market share
- **Other Applications of Strict Liability**
 - Virtually all courts extend strict liability to injured bystanders
 - Strict liability also applies to supplies of component parts
- **Defenses to Product Liability**
 - **Preemption**
 - Government regulations preempt claims for product liability
 - **Assumption of Risk**
 - Some courts do not allow AR to be used in strict product liability claims
 - **Product Misuse**
 - Plaintiff does not know the product is dangerous for a particular use
 - **Comparative Negligence**
 - Defendants may be able to limit damages by apportioning fault
 - **Commonly Known Dangers**
 - **Knowledgably User**
 - **Statues of Limitation and Repose**