

Products Liability Law Center

A products liability lawsuit refers to a lawsuit brought by a consumer against anyone in the chain of manufacturing, including the manufacturer of any component parts, the manufacturer that assembles a complete item, and sometimes the retail storeowner. These lawsuits often concern the following:

- **Design Defect**
- **Manufacturing Defect**
- **Failure to Warn**
- **Mesothelioma & Asbestos**
- **Breach of Warranty**
- **Product Recalls**

Products with defects causing harm to the consumer or a person to whom the product was given are the subjects of these lawsuits. Usually the subject property is tangible property, such as cars, motorcycles, children's toys, household equipment, and tools. Products liability suits can also revolve around defective recreational vehicles and roller coasters. Whenever a product has a defect or is unreasonably dangerous and causes injury, it may be

appropriate for the injured person to file a products liability lawsuit.

Types of Product Defects

There are three types of defects that can give rise to a products liability lawsuit: design defects, manufacturing defects, and marketing defects, which are better known as failures to warn. Manufacturing defects tend to be the most straightforward of the three types of claims.

A manufacturing defect occurs because of a flaw in construction or production. This type of defect occurs in only one or a few products of a particular type, rather than an entire line. The product that causes injury is different from the other ones. For example, a single motorcycle missing brake pads because the assembler of the motorcycle left them off would have a manufacturing defect. Similarly, a single bottle of medicine that has been mixed improperly such that it is poisonous has a manufacturing defect. In order to recover when there is a manufacturing defect, the manufacturing defect must be the **actual and proximate cause** of an injury.

Unlike manufacturing defects, design defects are inherent to an entire line of the same product. Generally, every product

of a particular type will be unreasonably dangerous to use, or otherwise defective, if there is a design defect, even though the product was made precisely according to the designer's and manufacturer's specifications. For example, an SUV that has a tendency to roll over when taking a tight turn might have a design defect. Similarly, a toy that releases toxic fumes when used correctly would be defectively designed. In order to recover for a design defect, the design flaw rather than the plaintiff's negligent actions must have caused the plaintiff's injury.

Marketing defects concern inadequate instructions in how to use the product or a failure to warn of the product's latent dangers. Typically, a failure to warn lawsuit revolves around a product that is dangerous in a non-obvious way or that requires a consumer to take certain safety measures when using it. For example, a medication that should not be mixed with another commonly used medication can be the subject of a failure to warn lawsuit if a consumer mixes the two and is injured. Similarly, a new consumer tool that emits microscopic poisonous particles during use could be the subject of a failure to warn suit if the particles fly into a consumer's face, causing injury.

Products liability suits can be brought on the basis of negligence, strict liability, misrepresentation, or breach of warranty. In many states they are brought pursuant to a state statute.

Strict liability suits are based on the responsibility of the manufacturer to sell products fit for use, and they can be brought even when the manufacturer used reasonable care. The injured plaintiff need only prove that a particular product was defective and that the defect was the proximate cause of his or her injury. Usually, both sides must retain experts to offer opinions about whether the product was defective.

A **negligence** theory is appropriate when the manufacturer failed to exercise reasonable care. It is often raised in design defect cases when a manufacturer fails to account for a probable use of a particular product and the risk of harm that will result.

The law assumes that manufacturers give certain warranties, some implied and some express, that the goods they make, sell, and distribute are of a certain quality and fit for use. When a product causes harm, it may breach an implied or express warranty. For example, if marketing information promises that a jacket is bulletproof, and it is worn by a

police officer who is shot, and it turns out that the jacket was not bulletproof, this may give rise to a failure to warn suit.

Misrepresentation applies when the advertising or promotion of a product gives consumers a false sense of security about using it. Misrepresentation can be intentional or negligent.

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Products Liability Claims

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Defective Product Case Types

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Bringing a Products Liability Claim

Products liability cases involve establishing specific elements and meeting strict filing deadlines.

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Product Recalls

A manufacturer may remove a product with a known defect from the market and offer remedies to consumers.

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Frequently Asked Questions

Can I sue if I was injured by a consumer product?

If you were injured by a product due to a manufacturing, design, or marketing defect, you may be able to file a lawsuit and recover damages from the

manufacturer, seller, and other potential defendants.

How much time do I have to take legal action over a dangerous product?

Filing deadlines vary by jurisdiction and often range from one to four years, with that period starting either at the time of the injury or the time the injury is discovered, depending on the state.

Who is the appropriate party to sue in a products liability case?

Responsible parties in a products liability lawsuit can include a number of different entities in the chain of distribution, including manufacturers, distributors, wholesalers, suppliers, and more.

Can a product be considered defective due to lack of adequate warnings?

If a consumer suffers an injury due to insufficient warnings or instructions regarding a product's use, they may have a products liability claim even if the product did not contain any other defects.

What kinds of damages are available in products liability cases?

A plaintiff injured due to a defective product may be able to recover damages for monetary losses like medical bills, non-monetary losses like pain and suffering, and in some cases, punitive damages.

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Design Defects

If a product has a design defect, all units have the same defect, and for a plaintiff to sue it must be foreseeable that it would be unreasonably dangerous for consumers to use it in the intended way.

Dangerous Drugs

Prescription drugs may suffer from manufacturing defects, meaning that they were made incorrectly, or marking defects, meaning that they did not have adequate warnings regarding side effects or risks.

Toxic Torts

Victims of environmental contamination or exposure to harmful substances at work can seek damages from the responsible entities, but these

cases are often best pursued by groups of injured plaintiffs.

Medical Devices

Manufacturers, distributors, suppliers, and others in the chain of commerce may be held liable if a medical device injures a patient due to a design defect, manufacturing defect, or marketing defect.

Camp Lejeune Water Contamination

A federal law passed in 2022 allows victims of contaminated water at a North Carolina military base to pursue compensation from the government for resulting illnesses.

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