

tion of Liability. [Most Cited Cases](#)

Under Products Liability Act of 1987, for purposes of absolute defense potentially available to manufacturers where harm is caused by “inherent characteristic” of product, some feature of product that is desirable but not necessary is not inherent characteristic; inherent characteristic is essential characteristic, and elimination of essential characteristic, although it might not render product totally useless, would measurably reduce product's appropriateness for its central function. [N.J.S.A. 2A:58C-3](#), subd. a(2).

## **[15] Products Liability 313A ⚔88.5**

### **313A Products Liability**

#### **313AII Actions**

##### **313Ak87 Questions of Law or Fact**

##### **313Ak88.5 k. Automobiles. [Most Cited Cases](#)**

Issue of whether operability of all functions of on-board computer for use in tractor trailers while tractor is in motion is inherent characteristic of computer such that manufacturer could not eliminate danger posed by operation of computer while tractor is in motion without significantly impairing intended function of computer, so that manufacturer would not be precluded from asserting absolute defense due to fact that risk of use of product would be obvious to ordinary person, was for jury in products liability action brought by motorist injured after her automobile was struck by tractor whose driver was using computer while tractor was in motion. [N.J.S.A. 2A:58C-3](#), subd. a(2).

**\*\*1367 \*369 Penny A. Bennett**, Princeton, for appellant (Smith, Stratton, Wise, Heber & Brennan, attorneys; [Peter R. Freed](#), of counsel; Mr. Freed and Grayson Barber, on the brief).

[Benjamin Goldstein](#), Berlin, for respondent (Maressa, Goldstein, Birsner, Patterson, Drinkwater & Oddo, attorneys).

The opinion of the Court was delivered by

[GARIBALDI, J.](#)

This appeal concerns the interpretation of the

phrase “without impairing the usefulness of the product” as used in section 3a(2) of the New Jersey Products Liability Act of 1987 (the Act), [N.J.S.A. 2A:58C-1](#) to -7. Section 3a(2) of the Act provides an absolute, affirmative defense for defendants in suits for design defect, if “the harm was caused by an unsafe aspect of the product that is an inherent characteristic of the product and that would be **\*370** recognized by the ordinary person who uses or consumes the product.” Section 3a(2) also provides two exceptions that preclude use of the defense: when the product is “industrial machinery or other equipment [that] is used in the workplace”; and when the danger “can feasibly be eliminated without impairing the usefulness of the product.” Only the second exception is before us.

## **I**

On August 27, 1987, a tractor-trailer truck owned by defendant Rich Foods, Inc., (Rich Foods), and operated by defendant William Lovette (Lovette) struck the car that Anita Roberts (Roberts) was driving. Several other cars were involved in the pile-up, and the accident resulted in fatalities and many injuries. Roberts was seriously hurt-she became a paraplegic-and her husband, John Roberts, and her minor children, who were sleeping passengers in the car, were also injured. Several hours after the accident, Lovette told the police that, as he had entered a construction area with a posted speed limit of forty-five miles per hour, he had been driving at sixty to sixty-five miles per hour and entering data in an “X-300” on-board computer manufactured by defendant Cadec Systems, Inc. (Cadec).

In September 1987, John Roberts, individually and as guardian *ad litem* for his two children, filed a complaint charging Rich Foods, Lovette, and his wife with negligence for causing the accident. In February 1988, Anita Roberts filed a cross-claim against Rich Foods and Lovette, and a third-party complaint against five additional parties involved in the accident. On August 25, 1989, plaintiffs and third-party plaintiff amended their pleadings to