

Products Liability

Strict Liability Recap

Limits on Strict Liability

Fletcher v. Rylands

--- PWFOPBOHL&C&KTALDMIIE

Rylands v. Fletcher

--- PWFOPBOHL&C&KTA “non-natural” and LDMIIE

First Restatement

--- “ultrahazardous activity”

Second Restatement

--- “abnormally dangerous activity”

Indiana Harbor Belt v. American Cyanamid

Strict liability applies for behavior that is:

- Very risky and that risk cannot be eliminated at reasonable cost

AND

- Not susceptible to due care analysis

Tort law is the law of
negligence.

Strict liability is the law of tort law when negligence fails.

MacPherson v. Buick Motor Co.



MacPherson v. Buick Motor Co.

Macpherson Test

If object can put life and limb in danger if negligently made

And defendant has knowledge of probable danger

And defendant has knowledge that it will be used by people other than the purchaser

And no further tests will be performed

Then manufacturer has a duty and privity is no defense

Escola v. Coca Cola

**Activism
in Pursuit
of the
Public Interest:
The
Jurisprudence of
Chief Justice**

ROGER J. TRAYNOR



BEN FIELD

Tort Law Values

Era	Philosophy	Primary Goal	Concern
Classical	Corrective justice	Individual accountability	Autonomy
New Deal	Political Economy	Distributive justice	Power
Neoliberal	Economics	Maximize utility	Efficiency

Rationale

Power dynamics

Cost spreading / insurance

Deterrence

Extensions of Liability

Plaintiffs: Not just consumers but bystanders.

Defendants: Not just manufacturers but retailers.

Defect Requirement

Products Liability

- Manufacturing defects
- Design defects
- Instructions and warnings

Manufacturing Defects

Design Defects

Barker v. Lull Engineering

Two tests:

- 1) Consumer expectations
- 2) Excessive preventable danger

Soule v. General Motors

When does the consumer
expectations test apply?

Not at
all clear!

It depends upon the “everyday experience of the product’s users”

- ~~1) Consumer expectations~~
- 2) Excessive preventable danger

“Reasonable Alternative Design”

“Reasonable Alternative Design” Challenges

