

## Products Liability (Old Approaches)

- Products Liability based on Negligence:
  - Manufacturer must exercise “due care” in:
    - Designing products;
    - Manufacturing and Assembling Products;
    - Inspecting and Testing Products; and
    - Placing adequate warning labels.
  - No Privity of Contract required between Plaintiff and Manufacturer
- Strict Products Liability
  - Product is unreasonably dangerous when sold
  - Plaintiff injured by use or consumption of product and defective condition is the proximate cause of injury.

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## Product Defects: Modern Approach

- Three types of product defects:
  - Manufacturing defects.
  - Design defects.
  - Warning Defects.
- Manufacturing Defects
  - Occurs when
    - a product departs from its intended design
    - even though all possible care was exercised in the preparation and marketing of the product,
    - and defect did cause the accident.

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## Design Defects

- Occurs when
  - the foreseeable risks of harm posed by the product
  - could have been reduced or avoided by the adoption of a reasonable alternative
  - and the omission of the alternative design renders the product not reasonably safe;
  - and defect did cause the accident.

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- Warning Defects
  - Inadequate warnings or instructions.
  - Liability based on foreseeability that proper instructions/labels would have reduced / eliminated risks, and hence without, product is not reasonably safe.
    - Have to show actual causation also.
    - No duty to warn about obvious risks.
    - Seller must also warn about injury due to foreseeable product misuse.
- Defenses to Products Liability
  - Assumption of Risk.
  - Product Misuse.
  - Contributory/Comparative Negligence.
  - Commonly known dangers.

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