

Mastering Products Liability

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Series Editor's Foreword

The Carolina Academic Press Mastering Series is designed to provide you with a tool that will enable you to easily and efficiently “master” the substance and content of law school courses. Throughout the series, the focus is on quality writing that makes legal concepts understandable. As a result, the series is designed to be easy to read and is not unduly cluttered with footnotes or cites to secondary sources.

In order to facilitate student mastery of topics, the Mastering Series includes a number of pedagogical features designed to improve learning and retention. At the beginning of each chapter, you will find a “Roadmap” that tells you about the chapter and provides you with a sense of the material that you will cover. A “Checkpoint” at the end of each chapter encourages you to stop and review the key concepts, reiterating what you have learned. Throughout the book, key terms are explained and emphasized. Finally, a “Master Checklist” at the end of each book reinforces what you have learned and helps you identify any areas that need review or further study.

We hope that you will enjoy studying with, and learning from, the Mastering Series.

Russell L. Weaver
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Preface

The true beginnings of products liability law can be debated. It may appear to start with the Restatement (Second) of Torts § 402A in the 1960s. It could be traced to the abolition of privity for negligence cases in *MacPhearson v. Buick* in the early 1900s. It could, however, be traced back to Coke on Littleton and the discussion of the fair price doctrine in the 1700s. Whatever the birth date of modern products liability law, it is clear that it had and continues to have a major impact from the mid-20th century until today.

The law developed slowly until the advent of strict liability in tort in the mid-1960s. From that period through the end of the 20th century, the law exploded. Products liability issues were discussed in terms of consumer protection or the harm to manufacturers. Products like automobiles, cigarettes, and prescriptions drugs became the central issues in the debate.

By the end of the 20th century, detractors were seeking to pull back on the extent to which consumers were protected. The Restatement (Third) of Products Liability showed a definite return to negligence. The extent to which that will be followed is still to be seen.

As a topic of study, the above discussion should point out why products liability is exciting. It is a modern development in the law in the United States and worldwide. It has had a major impact on the lives of ordinary people whether they were injured parties who sought relief or employees in factories who felt they lost jobs because companies were unable to compete in that marketplace.

This text is designed to provide a discussion of the broad range of topics found under the heading of Products Liability. A portion of the history of that area is discussed in order to help illuminate some of the relationships between different areas of the law. The different bases of claims and defenses are also presented. The text tries to provide a discussion of the more common issues that arise in this area. For students taking a course in products liability, this work should be useful for most courses in that area. It will provide the basics that will be covered regardless of the specific areas of concern on which the faculty seeks to focus.

At times, this work will need to cite to the Restatement of Torts and the Uniform Commercial Code. The language of those documents is not provided

in full, but, instead, attempts are made to explain those materials. It is suggested that the reader of this book should seek out copies of those materials when they are being cited. Being able to read the exact language of the Restatement and the Uniform Commercial Code will assist in the understanding of the material being presented.

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