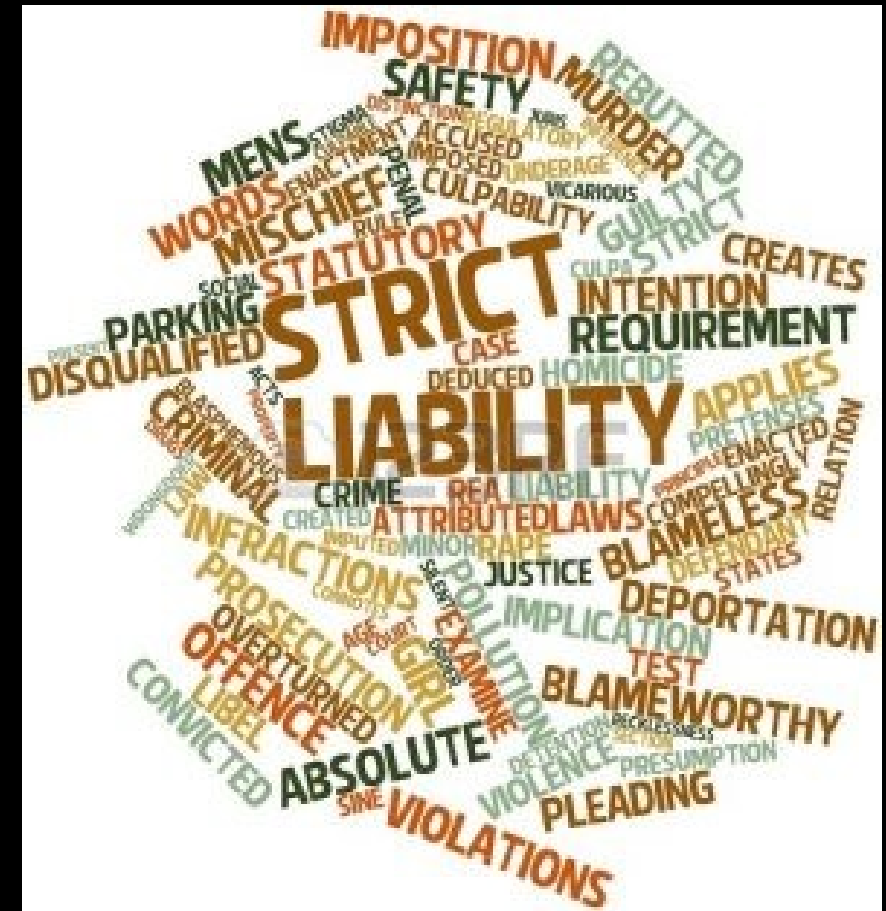
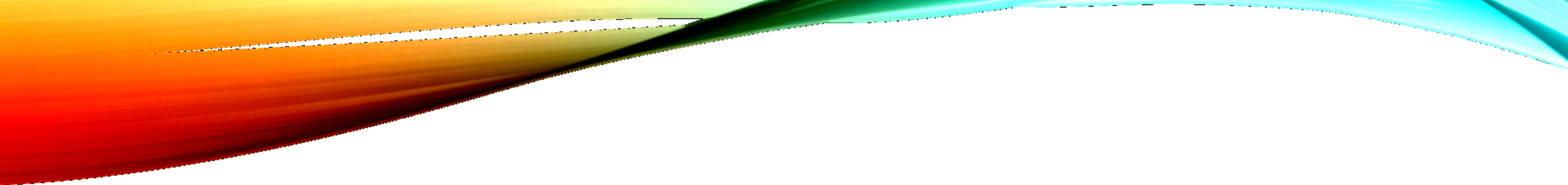




STRICT LIABILITY
&
PRODUCT LIABILITY

In tort law, **strict liability** is the imposition of **liability** on a party without a finding of fault or intent (such as negligence). The claimant needs to prove that the tort occurred and that the defendant was responsible. The law imputes **strict liability** to situations it considers to be inherently dangerous.



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- Strict liability is a legal term referring to the holding of an individual or entity liable for damages or losses, without having to prove carelessness or mistake. The doctrine of strict liability is commonly applied to cases involving defective products. Such a claim relies, not on wrongdoing, but on the inherent hazards of the situation or product.
 - When pursuing a legal action for liability, the plaintiff must generally prove that the defendant was somehow at fault, whether by negligence or direct fault, for the damages incurred by the plaintiff. The law, however, recognizes there are certain circumstances that are so inherently dangerous or hazardous, that there is no need for the plaintiff to prove direct fault or negligence.

The law classifies three basic types of strict liability torts, though a plaintiff may argue that another situation, which does not fall within this list, falls under the umbrella of absolute liability. Strict liability, also referred to as “absolute liability,” applies to such issues as injuries or other damages caused by a defective product, damages caused by animals, and engaging in certain hazardous activities. Therefore, the types of strict liability torts include injuries or damages caused by:



The law recognizes the differences between domesticated animals and wild animals in considering whether a circumstance is subject to absolute liability. There are otherwise three categories of animals' subject to strict liability:

- Livestock
- Dogs in General (dogs intersect two categories: livestock, and dangerous animals. While dogs have been domesticated for thousands of years, some are capable of causing serious injury or damages. If an individual has a dog, regardless of breed, that is known to be dangerous, it falls under the category of “dangerous animals” for strict liability purposes)
- Dangerous Animals
- Wild Animals.

THE DEFENDANT



ABNORMAL

People or entities

may be held strictly liable for injuries caused to others by the activity.

In order to qualify as an abnormally dangerous activity, the courts generally consider these elements:

- Did the activity involve a substantial risk of harming a person or property?
- Was the activity of such a nature that it could not be performed without risk of causing serious harm, regardless of how much care is taken to avoid it?
- Is the activity commonly engaged in by the average person in the community?

Examples of abnormally dangerous activities:

- Blasting or explosive demolition activities
- Storing explosives
- Using or transporting certain chemicals, such as combustibles and acids
- Disposing of hazardous chemical wastes
- Production or containment of radioactive emissions
- Performing controlled burns
- Certain product defects

To be successful in making a products liability claim under strict liability, the plaintiff must prove that there was a defect in the product when it left the defendant's possession. Additionally, the plaintiff must prove that he was injured by use of the product, and the injury was caused by the product's defective nature.

There are three primary types of defect in products liability cases: manufacturing defects, design defects, failure to warn.



When faced with a civil lawsuit or criminal charges of strict liability, a defendant may attempt to prove certain circumstances existed that would alleviate him of the strict liability obligation.

- **Assumption of Risk** - refers to situations in which a plaintiff knowingly and voluntarily assumed the risks inherent in a certain dangerous activity, when he chose to participate. This may apply in extreme sporting activities, such as sky diving and rock climbing. It may also apply to a plaintiff employed in a fundamentally dangerous profession. Because the injured party in both of these scenarios knew beforehand of the dangers and risks, yet made a conscious choice to engage in the activity anyway, strict liability does not apply.
- **Contributory Negligence** - In most civil lawsuits for negligence, the plaintiff's careless actions do not prevent recovery of damages. Unless, that is, the plaintiff knowingly subjected himself to the risky activity.



http://1080.plus/Torts_II_Strict_Products_Liability_Assignment/jhhzwQQgolo.video



STRICT PRODUCT LIABILITY

Holds Manufacturers Liable



California was the 1st state to impose Strict Liability in tort on Manufacturers *1963*
Greenman v. Yuba Power Products

PUBLIC POLICY

- ★ Consumers should be protected against unsafe products
- ★ Manufacturers and distributors should not escape liability from faulty products
- ★ Manufacturers and distributors can better bear the costs associated with injuries caused by their products

• 6 REQUIREMENTS FOR PROVING STRICT LIABILITY

If met, a manufacturer's liability for DAMAGES can be **UNLIMITED**

1. PRODUCT – MUST BE IN DEFECTIVE CONDITION
2. DEFENDANT – NEEDS TO BE IN THE BUSINESS OF SELLING
3. PRODUCT – MUST BE UNREASONABLY DANGEROUS
4. PLAINTIFF – PHYSICAL HARM NECESSARY
5. DEFECTIVE CONDITION MUST BE PROXIMATE CAUSE
6. PRODUCT- NOT SUBSTANTIALLY CHANGED FROM TIME OF PURCHASE



WHAT MAKES A PRODUCT DEFECTIVE?



*MANUFACTURER'S DEFECT *

WHEN THE PRODUCT DEPARTS FROM ITS INTENDED DESIGN
RESULTING IN A PHYSICAL FLAW OR DAMAGE THAT CAUSES INJURY

DESIGN DEFECT

WHEN THE DESIGN ITSELF IS FAULTY AND CAUSES INJURY

INADEQUATE WARNINGS

WHEN THE PRODUCT DOESN'T HAVE GOOD INSTRUCTIONS OR WARNINGS
AND ITS OPERATION CAUSES INJURY



DEFENSES TO PRODUCT LIABILITY

PREEMPTION

WHEN THERE IS EXTENSIVE GOVERNMENT REGULATION OF THE PRODUCT BEING MADE

ASSUMPTION OF RISK

- WHEN A PLAINTIFF KNOWS THE RISK AND WILLINGLY PROCEEDS

PRODUCT MISUSE

- WHEN A PRODUCT IS USED FOR AN UNINTENDED PURPOSE THAT IS NOT FORSEEABLE

COMPARATIVE NEGLIGENCE

- WHEN THE PLAINTIFF AND DEFENDANT BOTH HAVE SOME DEGREE OF FAULT (HANS JENSEN)

COMMONLY KNOWN DANGERS

- WHEN THE PRODUCT IS ASSOCIATED WITH RISKS KNOWN, NO WARNING NEEDED

KNOWLEDGABLE USER

WHEN A PARTICULAR DANGER IS OR SHOULD BE KNOWN BY THE USER

STATUTES OF LIMITATION AND REPOSE

- THE PERIOD OF TIME AFTER PURCHASE AN ACTION CAN BE BROUGHT INTO COURT

