Plain English Version

1. A seller is responsible for any harm resulting from a product if he misrepresents the product, which means he says something material and important about the product that isn’t true.

To recover under this theory, a plaintiff has the burden of proving to you that it is more likely than not that the following four circumstances are true:

(a) The seller made a misrepresentation, in other words, said or wrote something about the product that was not true;
(b) That the misrepresentation – what the seller one way or another led the buyer to believe - was about a fact that was material or important about the product;
(c) That [the person who bought the product bought it because of the misrepresentation] [the person who used the product use it because of the misrepresentation] [the person who (consumed)(ate)(drank) the product the product (consumed)(ate)(drank) it because of the misrepresentation];
(d) That the misrepresentation was a substantial factor – real, actual, not just very minor – in causing [name of plaintiff’s] (injury) (harm).

2. There are a number of ways a seller can misrepresent a product. The seller can make the misrepresentation by words or by what the seller does. Sometimes the seller has a regular pattern of doing business that people in a particular field or trade or place see. If the buyer sees this pattern, he/she has a right to expect the seller to follow this pattern in
every sale. Another way a seller can misrepresent a product is through other earlier dealings with the buyer. Also, a seller is responsible for a misrepresentation if he/she knows how the buyer will use the product and supplies a product he/she knows will be used for that purpose.

3. Sometimes a statement is not considered a “statement of fact” upon which a buyer can rely but is merely what is called “puffing” in trying to make a sale. This is expected, and is not considered a misrepresentation. For example, a car salesman may say, “This is a terrific buy” or “You will love this car.” This is not a statement of fact upon which a buyer can rely, but just a statement of opinion by the seller which is what is usually considered mere “puffing.” The plaintiff has to prove to you that the statement was more than just puffing. In making that decision, you should consider all the circumstances in which the statement was made, the subject of the statement, how the statement was made, the relationship of the buyer and seller, and the usual effect of such a statement. You should use your own experience and common sense to make this decision.

4. The definition of a “material fact” is “a fact upon which a reasonable user or consumer of the product would rely in using or consuming the product.” In other words, it is a statement that generally would be important to get the normal [buyer to buy] [user to use] the product, or would be important for the reasonable person when he/she would decide when, where or whether he/she would (buy) (use) (consume) the product.

5. The plaintiff has to prove that he/she would not have (bought) (used) (consumed) the product unless he/she believed the statement were true.

6. If you find that the seller made a misrepresentation about the product, it does not matter why the seller made the statement. This is what in the law is called “strict liability.” If
the seller made a false statement about a material fact – a misrepresentation – then the seller is responsible for the harm whether the seller was intentionally dishonest, careless, or even innocent. If there was a material misrepresentation, the motive or intent of the seller is not relevant and should not be considered.

7. Under the doctrine of “strict liability,” the plaintiff can still recover even if he/she were negligent or careless in listening to and believing the statement of the seller. Even if the average, reasonable person would not have believed the misrepresentation, the seller is still responsible. However, it is different if the plaintiff actually learned that the statement was untrue ahead of time – that the statement was a misrepresentation – and still voluntarily went ahead and (bought) (used) (consumed) the product. This means the plaintiff did not rely on the misrepresentation. In other words, knowing the seller’s misrepresentation was false, the plaintiff went ahead anyway, so it did not matter that the seller made a false statement. Then the seller is not responsible and the plaintiff cannot recover.

Original Version

(1) A seller who makes a misrepresentation of a material fact about the character or quality of a product he or she sells is liable for all physical harm resulting from another person’s reliance on the misrepresentation. In order for the plaintiff to recover against the seller, you must find: (1) that the seller made a misrepresentation, (2) that the misrepresentation was of a material fact, (3) that the purchaser or the user or consumer relied on the misrepresentation [in supplying the product to the user] [in using or consuming the product], and (4) that the purchaser’s or the plaintiff’s reliance on the misrepresentation was a substantial factor in causing the plaintiff’s injury.

(2) A misrepresentation is any assertion that is not true. An assertion may be by words or by conduct. An assertion by words may, for example, arise from statements contained in the labeling or in the advertising of a product. An assertion by conduct may, for example,
arise from a usage of trade or course in dealing. A usage of trade is any practice or method of dealing that has been regularly observed among persons in a particular place, trade, or vocation. Because a usage of trade is so regularly observed, a buyer may justifiably expect it to be observed by the seller in any sale. A course of dealing arises from the previous conduct between the buyer and seller. The course of dealing establishes a common basis for understanding each other’s expressions or conduct. An assertion by conduct may also arise when the seller knows the particular purpose for which the user or consumer requires the product, and the seller furnishes the product for that particular purpose.

(3) In determining whether a misrepresentation has been made, you must decide whether the seller’s assertion by words was only puffing. Puffing does not constitute a misrepresentation. Puffing is an assertion of the seller’s personal opinion in the form of any loose general statement of praise or commendation of the product sold; it is an assertion that would reasonably appear to be only the seller’s general opinion, not an assertion of fact. In determining whether the assertion was merely puffing or was a misrepresentation, you may consider the circumstances under which the assertion was made, the manner in which the assertion was made, and the ordinary effect of such an assertion. You may also consider the relationship of the parties and the subject matter to which the assertion relates.

(4) A material fact is a fact upon which a reasonable user or consumer of the product would rely in using or consuming the product. A material fact, in other words, is one that would tend to influence or induce a normal user or consumer to use or consume the product at all, or would influence the consumer concerning when, where, or for what purpose to use or consume the product. A material fact does not have to be the sole or even a substantial factor in inducing or influencing a reasonable person’s decision to use or consume the goods or product.

(5) Reliance means that the user or consumer would not have acted (or would not have failed to act) as he or she did in using or consuming the product unless he or she considered the misrepresentation to be true.

(6) This is a rule of strict liability. Strict liability means that it makes no difference whether the seller’s misrepresentation was innocent, negligent, or fraudulent. If you find that the misrepresentation was made, the seller’s motive or intention is not relevant.

Strict liability also means that the plaintiff is not barred from recovery because of any negligence on [his] [her] part. For example, the user or consumer’s failure to discover that the misrepresentation was untrue does not bar recovery even if a reasonable user or consumer would have discovered that fact. However, if the user or consumer of the product actually discovered that the misrepresentation was untrue and, despite that knowledge, voluntarily used or consumed the product, the user or consumer can no longer be said to be relying on the misrepresentation. In such a case, the seller’s misrepresentation is not a substantial factor in causing the plaintiff’s injury.
8.01 (Civ)

GENERAL RULE OF STRICT LIABILITY

Plain English Version

[Name of plaintiff] claims that [he/she] was harmed by a product [distributed/manufactured/sold] by [name of defendant]. [He/she] claims the [specify type of manufacturer, distributor, other supplier, etc.] is responsible because the product, in this case [name of product], was defective.

He claims the product was unsafe because it [had a manufacturing defect] [was defectively designed] and/or it did not have enough [instructions] and/or [warnings] so that a reasonable person could use the product safely.¹

The general rule of law is that a [specify type of manufacturer, distributor, other supplier, etc.] of a product is responsible for injury caused by that product if it leaves its [plant, warehouse, store, etc.] in an unreasonably dangerous condition. That means it was more dangerous than the average person using the product would know or realize.² The [specify type of manufacturer, distributor, other supplier, etc.] is responsible even if it was not negligent or careless and took all reasonable care in the [manufacture, distribution, etc.] of that product.

This is an old rule of law that comes from a case involving a tire that exploded on a car, causing injuries. It was shown that when a company makes tens of thousands of tires, no matter how careful it is, a few are going to have defects that can cause injury. In this case, the court held the company responsible although the company [making, distributing, selling] the product did nothing wrong and was not negligent. However, the person injured also did nothing wrong. The court had to decide who was responsible, the innocent seller or the innocent buyer. The court decided that the company that was in business and making a profit from the product should be responsible for the injury.³

¹ Based on California instruction § 1200.
² Based on Tennessee T.P.I. 3 Civil 10.01.
³ New.
The [specify type of supplier] of a product is [liable] [subject to liability] for the injuries caused to the plaintiff by a defect in the article, which existed when the product left the possession of the [specify type of supplier]. Such liability is imposed even if the [specify type of supplier] has taken all possible care in the preparation and sale of the product.
DEFINITION OF “DEFECT”

Plain English Draft

It has been said that [specify type of supplier, e.g., manufacturer, distributor, wholesaler, etc.] of a product is a guarantor of its safety. That does not mean that a [specify type of supplier, e.g., manufacturer, distributor, wholesaler, etc.] is responsible every time someone gets hurt by a product.

A manufacturer is responsible if the product had a defect made it unreasonably dangerous. For the manufacturer to be liable, the product had to have the defect when it left the possession of the [specify type of supplier, e.g., manufacturer, distributor, wholesaler, etc.].

“Defect” has a special meaning in this kind of a case. The language is that “The product must be provided with every element necessary to make it safe for [its intended] use, and without any condition that makes it unsafe for [its intended] use.”

That means that::

(a) the product must have everything needed to make it safe for the way it is expected to be used; and

(b) the product does not have anything that makes it unsafe for the way it is expected to be used.

Of course, if a product is safe when it leaves the [specify type of supplier, e.g., manufacturer, distributor, wholesaler, etc.] and later it is changed so that it becomes unsafe or defective, that is not the responsibility of the [specify type of supplier, e.g., manufacturer, distributor, wholesaler, etc.], unless the [specify type of supplier, e.g., manufacturer, distributor, wholesaler, etc.] should have realized that it was likely that someone would make such changes.

Likewise, the [specify type of supplier, e.g., manufacturer, distributor, wholesaler, etc.] is not responsible if the product was misused, unless the [specify type of supplier, e.g., manufacturer, distributor, wholesaler, etc.] should have realized that it was likely someone would so misuse the product.

Original Draft

The [specify type of supplier, e.g., manufacturer, distributor, wholesaler, etc.] of a product is a guarantor of its safety. The product must be provided with every element necessary to
make it safe for [its intended] use, and without any condition that makes it unsafe for [its intended] use. If you find that the product, at the time it left the defendant’s control, lacked any element necessary to make it safe for [its intended] use, or contained any condition that made it unsafe for [its intended] use, then the product was defective and the defendant is liable for all harm caused by the defect.1
As I said, a product can have what we call a “defect” or be unreasonably dangerous in several ways:

1. It can have a defect in manufacturing.
2. It can have a defect in design.
3. It can have a defect if the instructions or warnings are not adequate.

[Name of plaintiff] has the burden of proving to you that the product was unsafe when it left the [specify type of supplier, e.g., manufacturer, distributor, wholesaler, etc.]

If a product has a manufacturing defect, that means there was something wrong when it was made so that it was unreasonably dangerous. That generally means for some reason it was not as safe as the other products made in the same way. As I said, the manufacturer is responsible even if it was careful and there was no reasonable way every single product the manufacture made could be made to be safe.

**Original Draft**

There is no original draft – it was felt this is necessary to distinguish between manufacturing and design defects.
DESIGN DEFECT

Plain English Version

In addition to a defect that can be caused in the manufacture or making of a product, there can be a defect in the way that the product is designed. In this case, [name of plaintiff] claims that a mistake in the design made the product unsafe and caused his injury/harm.

[Name of plaintiff] has the burden of proving to you that the product was badly designed so that it was unsafe when it left the [specify type of supplier, e.g., manufacturer, distributor, wholesaler, etc.]

Also, [name of plaintiff] has to prove to you that the unsafe design caused his injury/harm.

For a design to be defective, you must consider:

1. How serious a harm could result from the use of the product;
2. What were the chances that harm could result;
3. Whether it was possible to make a design that would not have the defect;
4. How much it would cost to make a different design;
5. What other problems could be created by a different design
6. [Other relevant factor(s)].*

Original Draft

There is no original draft – it was felt this is necessary to distinguish between manufacturing and design defects.

* Based on California charge § 1204.
8.03 (Civ)  

DUTY TO WARN

Plain English Version

A product is “defective” even if it was perfectly made and designed if it does not have adequate and proper warnings and instructions concerning its use.

To be adequate and proper, (warnings)(instructions) must call to the attention of a reasonably careful person (the kind of dangers involved in using or misusing the product)\(^5\) (the proper way to use the product safely).

In preparing instructions and warnings, [a manufacturer, distributor, seller, etc.] must consider, among other things, who is reasonably likely to use the product and how they are likely to use it. The warnings must be placed on the product in a place and in a manner where it is reasonable to expect that the user will notice them.\(^6\)

Original Draft

Even a perfectly made and designed product may be defective if not accompanied by proper warnings and instructions concerning its use. A supplier must give the user or consumer any warnings and instructions of the possible risks of using the product that may be required, or that are created by the inherent limitations in the safety of such use. If you find that such warnings or instructions were not given, the defendant is liable for all harm caused by the failure to warn.

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\(^5\) Based on Tennessee T.P.I. 3 Civil 10.02.

\(^6\) Based on Tennessee T.P.I. 3 Civil 10.02.
Plain English Version

If you find that adequate and proper (instructions)(warnings) were **not** given, then the [name of manufacturer, distributor, seller, etc.] is liable for failure (to warn)(to give proper instructions).

If you find that adequate and proper (instructions) (warnings) **were** given, then [name of manufacturer, distributor, seller, etc.] is **not** liable for failure (to warn) (to give proper instructions).

If adequate and proper (warnings) (instructions) were given, the user has to read them and follow them. If the (warnings) (instructions) are adequate and proper, it is no excuse that the (user)(name of plaintiff) did not read and follow them, and the defendant is not responsible.

Original Version

If you find, instead, that the defendant did provide the needed warning, then you may not find the defendant liable for a failure to warn based on a determination that the plaintiff did not read or heed the warning provided by the defendant. When a seller provides warnings and/or instructions that are proper and adequate, the seller is entitled to presume—and the law presumes—that those warnings and instructions will be read and heeded.
DUTY TO WARN—“HEEDING PRESUMPTION,”
FOR USER-CONSUMER/PLAINTIFF

[NOTE: This charge is based on Coward v. Owens-Corning Fiberglas Corp., 729 A.2d 614 (Pa.Super. 1999), app. Granted 743 A.2d 920 (Pa. 1999). Because of the Owens-Corning bankruptcy, no Supreme Court action was ever taken and the case was closed. Moreover, that case may have been limited by Vigures v. Phillip Morris USA, Inc., 837 A.2d 534 (Pa. Super. 2003), where while recognizing that public policy favored the “heeding presumption” in asbestos cases, it may not apply in other case.]

Plain English Version

If you find that adequate and proper (instructions)(warnings) were not given, then the [name of manufacturer, distributor, seller, etc.] is liable for failure (to warn)(to give proper instructions).

In this case, if the (instructions)(warnings) were not given, you should presume that [name of plaintiff] would have followed the warnings. Under the law, absent specific facts, the Defendant can not ask you to assume that [name of plaintiff] would not have followed the (warnings)(instructions) even if they were they adequate and proper.

Original Version

If you find, instead, that there were warnings or instructions required to make this product nondefective, which were not [adequately] provided by the defendant, then you may not find for the defendant based on a determination that, even if there had been adequate warnings or instructions, the plaintiff would not have read or heeded them. Instead, the law presumes, and you must presume, that if there had been adequate warnings or instructions, the plaintiff would have followed them.
8.03C (Civ)  

DUTY TO WARN—CAUSATION, WHEN  
“HEEDING PREJUSMPTION” FOR PLAINTIFF IS REBUTTED

[NOTE: As noted in 8.03B above, there is a question as to whether the “heeding  
 presumption” is the law in Pennsylvania. In Coward v. Owens-Corning Fiberglas Corp., 729  
A.2d 614 (Pa.Super. 1999), app. Granted 743 A.2d 920 (Pa. 1999), the Superior Court held  
in an asbestos case that the plaintiff was entitled to a presumption that he/she would have  
heeded warnings if they were given. Because of the Owens-Corning bankruptcy, no  
Supreme Court action was ever on Coward taken and the case was closed. Moreover,  
Coward may have been limited by Vigures v. Phillip Morris USA, Inc., 837 A.2d 534 (Pa.  
Super. 2003), where while recognizing that public policy favored the “heeding  
presumption” in asbestos cases, it may not apply in other case.]

Plain English Version

If you find that adequate and proper (instructions)(warnings) were not given, then the  
[name of manufacturer, distributor, seller, etc.] is liable for failure (to warn)(to give proper  
instructions).

To be liable, the lack of adequate and proper (warnings)(instructions) must be what we  
call the “factual cause” of the (injury)(harm).

If the plaintiff would have (been injured)(suffered harm) even if there were adequate and  
proper (warnings)(instructions), then the defendant is not liable. That means to recover, [name  
of plaintiff] has the burden of proving to you that he would have acted to avoid being harmed by  
the defect if he had adequate and proper (warnings)(instructions).

Original Version

If you find, instead, that there were warnings or instructions required to make this product  
nondefective, which were not [adequately] provided by the defendant, then you must determine  
whether that failure by the defendant was a factual cause of the harm to the plaintiff. The
question, in other words, is whether the plaintiff would have been harmed if the needed warning had been provided. If you find that the plaintiff would have acted to avoid the underlying hazard if such a warning had been provided, then you should find on this issue in favor of the plaintiff. Otherwise, you should find for the defendant.
FACTUAL CAUSE

Plain English Version

A Defendant is responsible for all injury or harm if the defective product is what we call the “factual cause” of the injury or harm.

That means that [name of plaintiff] has to prove to you that the defective product was a “factual cause” of the injury or harm. To be a “factual cause,” the defective product must have played an actual, real role in causing the injury or harm to [name of plaintiff]. The connection between defective product and the injury or harm can not be only an imaginary, remote, or very insignificant cause.

At the same time, the defective product is a “factual cause” even if:

(a) the defective product is one of several causes of the injury or harm;

(b) the defective product is not the major cause of the injury or harm. So long as it is actual and real, it can be a relatively minor cause;

(c) the result is unexpected or unusual; or

(d) the defect did not cause the initial accident or impact.

For example, suppose a person was riding in a golf cart that was defective because the accelerator was broken and it would not go as fast as it should. While the car was crossing a road, a drunk driver going 60 miles an hour comes around a curve and hits the cart. The broken accelerator was not a “factual cause” of the accident, even if the cart might have been across the street if it had been going faster.

If because of the defect, the [name of plaintiff’s] injury or harm was greater than it would have been if the product was safe, the [manufacturer, distributor, seller, etc.] is responsible for any increase in the injuries or harm.
Original Version

If you find that the product was defective, the defendant is liable for all harm caused by such defective condition. A defective condition is the factual cause of harm if the harm would not have occurred absent the defect. [In order for the plaintiff to recover in this case, the defendant’s conduct must have been a factual cause of the accident.]

[The plaintiff is not required to prove that the defect caused the accident or initial impact. If the defect increased the severity of the injury over what would have occurred without the defect, the [manufacturer] [seller] is liable for the increased injuries suffered by the plaintiff.].
8.05 (Civ)

STRICT LIABILITY UPON PROOF OF MALFUNCTION

Plain English Version

[NOTE: This charge is not for use in every case, but only when it is found that there is no
abnormal use or other reasonable cause of the defect. It is based on the cases of Brill v.
normal use) and Ducko v. Chrysler Motors Corp., 639 A.2d 1204, 1207 (Pa. Super. 1994)
(car jerked unexpectedly to the right when being driven normally.)]

In some cases, the plaintiff does not have to prove the specific nature of the defect. The
plaintiff can prove that there was a defect by proving all of the following:

1. The product malfunctioned;
2. It was only used normally before the malfunction; and
3. There are no other causes that can be reasonably associated with the malfunction.

Original Version

A plaintiff in a strict liability case may prove his or her case merely by showing the
occurrence of a malfunction of a product during normal use. The plaintiff need not prove the
existence of a specific defect in the product. The plaintiff must prove three facts: that the product
malfunctioned, that it was given only normal or anticipated use prior to the accident, and that no
reasonable secondary causes were responsible for the accident.
**8.06 (Civ)**

**STRICT LIABILITY RESPONSIBILITY NONDELEGABLE**

**Plain English Version**

If a seller puts a defective product into the market, he/she is responsible for the harm to the person who finally buys and uses it even if the product passes through the hands of others before it gets to the user.

If the product was safe when it left the seller’s control and the defect was created by someone else later, generally the seller is not responsible. However, if the seller should have realized that someone else would be negligent or would create the unsafe condition in some other way, then the seller would be responsible.

**Original Version**

A defendant in a strict liability case who puts a defective product into the market remains liable to the user or consumer, despite the foreseeable conduct, negligent or otherwise, of others, for the harm created by the product as a result of the defect.
DEFENSE OF OCCASIONAL SELLER

Plain English Draft

Only a seller who is in the business of [manufacturing, distributing or selling] goods may be held responsible for harm to the plaintiff. That does not mean supplying goods must be the defendant’s only business, so long as it is part of the business.

If the defendant sells goods just occasionally, he or she cannot be held responsible. Examples of an “occasional seller” would be someone who sells his or her personal car to another person or someone who sells his or her neighbor a stereo system.

Original Draft

Liability may only be imposed upon a supplier who is in the business of supplying the products that are the basis for the liability. This does not mean that supplying of such products must be the defendant’s only business. But liability for a defective product cannot be imposed upon the occasional seller, such as an individual who sells his or her only automobile to another, or the individual who sells his or her neighbor a cup of sugar.
SUBSTANTIAL CHANGE

Plain English Draft

Normally, a seller is only responsible for defects present at the time the product leaves his or her control. This means that normally the seller is not responsible for defects created by substantial changes in the product after it was sold to the plaintiff.

There is an exception if the seller could reasonably expect that substantial changes would be made to the product after it left the seller’s control. If you find that there were substantial changes to the product after it left the seller’s control, you must decide whether or not the seller could have anticipated or expected those changes to be made. If the seller could have anticipated or expected those changes, then the seller is still responsible for the plaintiff’s harm.

For example, a seller may distribute an electric saw or a drill press with a guard on it which makes it safe. The plaintiff’s employer buys the machine and then, to speed things up, takes off the guard. Because the guard is removed, the plaintiff is injured. You then have to decide whether or not the seller could reasonably have predicted that the employer would take off the guard. If so, you have to decide if the seller could have done something to either prevent the removal of the guard or should have put a warning on which would have alerted the plaintiff to the danger of operating the machine without the guard.

Original Draft

A seller is responsible only for defects that exist at the time the product leaves his or her control. The seller is not liable for defective conditions created by substantial changes in the product occurring after the product has been sold. [There is, however, an important qualification to this rule. If you do find that defective conditions were created by substantial changes in the product occurring after it was sold, that finding would not, in itself, relieve the seller of liability. Rather, the seller would still be liable, in that circumstance, unless you also find that the changes were ones that could not reasonably have been foreseen or expected by the seller. That is because
a seller’s responsibility, under our law, extends to all dangers that result from foreseeable changes to the product.]
DEFENSE OF ASSUMPTION OF RISK

Plain English Version

It is a defense to responsibility if a Defendant can prove to you that it is more likely than not that [name of plaintiff] actually knew of the defect in the product and knowing of the danger, voluntarily used the product. In the law, that is known as “assumption of the risk.”

That is not the same thing as negligence. [Name of plaintiff] can still recover even if he/she did not actually know of the risk, even if a reasonable person should have known of the risk. In other words, someone who [manufactures, distributes, or sells] a defective product cannot escape responsibility by saying the person injured or harmed was careless or negligent. The Defendant has to prove that the [name of plaintiff] actually knew of the defect, knew the risk of using the product with the defect, and went ahead and used it anyway.

Also, a Defendant cannot escape responsibility if the plaintiff was required to use the product as part of his job or risk getting disciplined or fired, even if the plaintiff knew of the danger and the risk.

Original Version

If the plaintiff knew of the specific defect eventually causing [his] [her] injury and voluntarily proceeded to use the product with knowledge of the danger caused by this specific defect, [he] [she] is barred from recovery. [He] [She] is not barred from recovery, however, if [he himself] [she herself] did not actually discover the defect prior to the accident or failed to recognize and appreciate its danger, regardless of what other persons might have done in the same circumstances. Nor is [he] [she] barred from recovery by any negligence on [his] [her] part. Voluntary exposure to a dangerous situation does not bar recovery, unless the danger known and recognized by the plaintiff was that caused by the specific defect eventually causing [his] [her]
injury. It is the defendant’s burden to prove that the plaintiff actually knew of the defect, appreciated its danger, and voluntarily chose to encounter it.

[Furthermore, I charge you that, if you find that the plaintiff was required to use this product in the course of [his] [her] employment, and that the plaintiff used the product as directed by [his] [her] employer, then you may not find that there was an assumption of risk by the plaintiff, that could bar [him] [her] from recovery. Where an employee, in doing a job, is required to use equipment as furnished by the employer, the defense of assumption of the risk is unavailable.]
8.10 (Civ)

LIABILITY FOR HARM TO BYSTANDERS

Plain English Draft

As I told you, if the [manufacturer, distributor, seller, etc.] is responsible for a defective product, and that defective product is the “factual cause” of injury or harm, the [manufacturer, distributor, seller, etc.] is responsible.

That Defendant is not just responsible to the person that buys the product. The Defendant is also responsible to any user of the product. The Defendant is also responsible even to a bystander, if the defective product is the “factual cause” of a bystander’s injury or harm.

Original Draft

The seller is liable for all harm for which his or her defective product is the factual cause, whether such harm be to a user, consumer, or bystander. The seller, by placing his or her product into the stream of commerce, is responsible to all who come within the boundaries of its use.