

RESTATEMENT (SECOND) TORTS, Section 402A

1. Product is in a defective condition when the Defendant sells it
  2. Defendant is normally in the business of selling the product
  3. Defect makes the product unreasonably dangerous<sup>\*\*</sup>
    - a. Product is dangerous beyond the ordinary consumer's expectations
    - b. There is a less dangerous, economically feasible alternative that the manufacturer failed to use
  4. Plaintiff incurs harm to self or property by use of the product
  5. Defect is the proximate cause of the harm
  6. Product was not substantially changed after it was sold.
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<sup>\*\*</sup> Common Types of Defects

- Manufacture
- Design
- Failure to Warn
- Packaging



Supreme Court of  
California, 1962.  
59 Cal.2d 57,  
377 P.2d 897,  
27 Cal.Rptr. 697.  
<http://mcs.newpaltz.edu/~zuckerma/cases/green1.htm>

IN THE LANGUAGE  
OF THE COURT

**BACKGROUND AND FACTS** *The plaintiff, Greenman, wanted a Shopsmith—a combination power tool that could be used as a saw, drill, and wood lathe—after seeing a Shopsmith demonstrated by a retailer and studying a brochure prepared by the manufacturer. The plaintiff's wife bought and gave him one for Christmas. More than a year later, a piece of wood flew out of the lathe attachment of the Shopsmith while the plaintiff was using it, inflicting serious injuries on him. About ten and a half months later, the plaintiff filed suit in a California state court against both the retailer and the manufacturer for breach of warranties and negligence. The trial court jury found for the plaintiff. The case was ultimately appealed to the Supreme Court of California.*

TRAYNOR, Justice.

Plaintiff introduced substantial evidence that his injuries were caused by defective design and construction of the Shopsmith. \* \* \* The jury could therefore reasonably have concluded that the manufacturer negligently constructed the Shopsmith. The jury could also reasonably have concluded that statements in the manufacturer's brochure were untrue, that they constituted express warranties, and that plaintiff's injuries were caused by their breach.

[But] to impose strict liability on the manufacturer under the circumstances of this case, it was not necessary for plaintiff to establish an express warranty \* \* \*. A manufacturer is strictly liable in tort when an article he places on the market, knowing that it is to be used without inspection for defects, proves to have a defect that causes injury to a human being. \* \* \* [Emphasis added.]

\* \* \* The purpose of such liability is to insure that the costs of injuries resulting from defective products are borne by the manufacturers \* \* \* rather than by the injured persons who are powerless to protect themselves.

DECISION  
AND REMEDY

*The Supreme Court of California upheld the jury verdict for the plaintiff. The manufacturer was held strictly liable in tort for the harm caused by its unsafe product.*

a. This case is included within the Web site for an "Introduction to Law" course taught by Paul Zuckerman, a professor with the State University of New York at New Paltz.