CONTENTS

VOLUME 1

Acknowledgments xix
Introduction xxiii

PART I
THEORIES OF LIABILITY

Chapter 1
REPRESENTATIONAL BACKGROUNDS 1–3
§1.01 Product Portrayals 1–3
§1.02 Linkage of Representational and Nonrepresentational Theories 1–7

Chapter 2
THE CULPABILITY SPECTRUM ON REPRESENTATIONS 2–1
§2.01 Overview 2–1
§2.02 Fraud or Deceit 2–1
§2.03 Negligent Misrepresentation 2–20
§2.04 Representational Liability Without “Fault” 2–24
§2.05 Mistake 2–26

Chapter 3
EXPRESS WARRANTY 3–1
§3.01 General Concepts of Express Warranty 3–1
§3.02 U.C.C. Definitions 3–7
§3.03 Liability Without Privity 3–8
§3.04 Advertising Techniques and Contexts 3–10
§3.05 Puffs 3–13
§3.06 Specialized Meanings 3–22
§3.07 Suits Against Professionals 3–24
§3.08 Evidence of Breach 3–25
§3.09 Reliance 3–26
§3.10 Related Theories 3–31

Chapter 4
TORT THEORY OF NON-FAULT MISREPRESENTATION 4–1
§4.01 Definitions of Theory 4–1
§4.02 Requirements of Specificity 4–7
§4.03 Liberal Construction 4–8
§4.04 Non-Fault Aspect 4–9
CONTENTS

§4.05 Analogies and Distinctions 4–10
§4.06 “Proximate Cause” 4–13
§4.07 Relation to Section 402A 4–14

Chapter 5
NEGLIGENCE AND INTENTIONAL TORTS 5–1
§5.01 Definition 5–1
§5.02 General Standard 5–2
§5.03 Privity Eliminated 5–9
§5.04 Classic Formulas 5–10
§5.05 Specificity of Application 5–20
§5.06 Foreseeability 5–20
§5.07 Judge and Jury 5–25
§5.08 Factors in Judgment 5–27
§5.09 Assessment and Doctrinal Comparisons 5–38
§5.10 Intentional Infliction of Emotional Distress 5–38
§5.11 Battery 5–40
§5.12 Other Types of Culpability 5–40
§5.13 Intentionality in the Insurance Context 5–42

Chapter 6
IMPLIED WARRANTY 6–1
§6.01 Historical Review 6–1
§6.02 Merchantability 6–4
§6.03 Fitness 6–18
§6.04 Doctrinal Comparisons and Overlaps 6–28

Chapter 7
STRICT LIABILITY 7–1
§7.01 Historical Development 7–1
§7.02 Section 402A: Seller’s Special Liability 7–6
§7.03 The Product Issue 7–11
§7.04 Doctrinal Comparisons 7–31
§7.05 Rationales for Strict Liability 7–39
§7.06 Assessment and Forecast 7–48

PART II
THE DEFECT

Chapter 8
GENERAL DEFINITIONS OF DEFECT 8–1
§8.01 Significance of Defect 8–4
§8.02 Design and Manufacturing Defects 8–6
§8.03 Policy Considerations 8–10
## CONTENTS

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
<th>Pages</th>
</tr>
</thead>
<tbody>
<tr>
<td>§8.04</td>
<td>Specific Manifestations of the Concept</td>
<td>8–11</td>
</tr>
<tr>
<td>§8.05</td>
<td>The “Unreasonably Dangerous” Requirement</td>
<td>8–14</td>
</tr>
<tr>
<td>§8.06</td>
<td>Consumer Expectations</td>
<td>8–44</td>
</tr>
<tr>
<td>§8.07</td>
<td>“Risk-Utility” Standard</td>
<td>8–118</td>
</tr>
<tr>
<td>§8.08</td>
<td>Overlap of Consumer Expectations and Risk-Benefit</td>
<td>8–129</td>
</tr>
<tr>
<td>§8.09</td>
<td>Variations of Verbal Standard</td>
<td>8–140</td>
</tr>
<tr>
<td>§8.10</td>
<td>Salient Issues in Defect Jurisprudence</td>
<td>8–155</td>
</tr>
<tr>
<td>§8.11</td>
<td>Overlapping Concepts: Defect and Defenses</td>
<td>8–171</td>
</tr>
<tr>
<td>§8.12</td>
<td>Nondefective Products</td>
<td>8–178</td>
</tr>
<tr>
<td>§8.13</td>
<td>Conclusion</td>
<td>8–179</td>
</tr>
</tbody>
</table>

### Chapter 9

**DESIGN DEFECTS**

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
<th>Pages</th>
</tr>
</thead>
<tbody>
<tr>
<td>§9.01</td>
<td>The Design Problem</td>
<td>9–2</td>
</tr>
<tr>
<td>§9.02</td>
<td>Conceptual Approaches</td>
<td>9–10</td>
</tr>
<tr>
<td>§9.03</td>
<td>Complex Economic Relationships and Information</td>
<td>9–20</td>
</tr>
<tr>
<td>§9.04</td>
<td>Pleading</td>
<td>9–21</td>
</tr>
<tr>
<td>§9.05</td>
<td>Overlap with the Causation Issue</td>
<td>9–23</td>
</tr>
<tr>
<td>§9.06</td>
<td>Elements of Verbal Formulas</td>
<td>9–24</td>
</tr>
<tr>
<td>§9.07</td>
<td>Strictness of Strict Liability</td>
<td>9–34</td>
</tr>
<tr>
<td>§9.08</td>
<td>Liability for Function as Designed</td>
<td>9–35</td>
</tr>
<tr>
<td>§9.09</td>
<td>Manufacturer’s Basic Responsibility: Safety Devices</td>
<td>9–36</td>
</tr>
<tr>
<td>§9.10</td>
<td>The Polycentricity Argument</td>
<td>9–41</td>
</tr>
<tr>
<td>§9.11</td>
<td>Product Continuums</td>
<td>9–44</td>
</tr>
<tr>
<td>§9.12</td>
<td>Effects of Product Complexity</td>
<td>9–49</td>
</tr>
<tr>
<td>§9.13</td>
<td>Conditions of Use</td>
<td>9–51</td>
</tr>
<tr>
<td>§9.14</td>
<td>Crashworthiness</td>
<td>9–88</td>
</tr>
<tr>
<td>§9.15</td>
<td>Enhanced Injury Generally</td>
<td>9–111</td>
</tr>
<tr>
<td>§9.16</td>
<td>Objective Expectations</td>
<td>9–111</td>
</tr>
<tr>
<td>§9.17</td>
<td>Obviousness of Risk</td>
<td>9–113</td>
</tr>
<tr>
<td>§9.18</td>
<td>Judge and Jury</td>
<td>9–127</td>
</tr>
<tr>
<td>§9.19</td>
<td>Availability of Technology</td>
<td>9–170</td>
</tr>
<tr>
<td>§9.20</td>
<td>Overlapping Concepts: Duty to Warn and Defect</td>
<td>9–173</td>
</tr>
</tbody>
</table>

### Chapter 10

**STATE OF THE ART**

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
<th>Pages</th>
</tr>
</thead>
<tbody>
<tr>
<td>§10.01</td>
<td>Definitions and Rationales</td>
<td>10–1</td>
</tr>
<tr>
<td>§10.02</td>
<td>Admissibility of Evidence</td>
<td>10–6</td>
</tr>
<tr>
<td>§10.03</td>
<td>Evidence Excluded</td>
<td>10–11</td>
</tr>
<tr>
<td>§10.04</td>
<td>Cost-Benefit Test</td>
<td>10–12</td>
</tr>
<tr>
<td>§10.05</td>
<td>Later Alternative Design</td>
<td>10–13</td>
</tr>
<tr>
<td>§10.06</td>
<td>Strict Liability</td>
<td>10–13</td>
</tr>
</tbody>
</table>
CONTENTS

Chapter 11
SOURCES OF STANDARDS FOR PRODUCT DESIGN AND PERFORMANCE
§11.01 Role of Standards 11–1
§11.02 Industry Standards 11–2
§11.03 Statutes as Standard Setters 11–11

VOLUME II

PART III
ECONOMIC RELATIONSHIPS IN PRODUCTS LIABILITY

Chapter 12
ROLES OF SELLERS AND PROVIDERS 12–3
§12.01 Overview 12–5
§12.02 Inventors 12–6
§12.03 Manufacturers 12–6
§12.04 Retailers 12–87
§12.05 Wholesalers 12–113
§12.06 Varieties of Distributors 12–116
§12.07 Product Demonstration and Testing 12–127
§12.08 Manufacturer's Control 12–129
§12.09 Manufacturers as Consumers 12–130
§12.10 Leasing and Other Supply Arrangements 12–130
§12.11 Designers 12–148
§12.12 Following Specifications of Others 12–156
§12.13 Installation 12–190
§12.14 Repairers 12–195
§12.15 Processing 12–203
§12.16 “Services” 12–203
§12.17 Brokers and Other Middlemen 12–231
§12.18 Providing Ideas or Information 12–237
§12.19 Testers and Certifiers 12–243
§12.20 Real Estate 12–245
§12.21 Government as Defendant 12–257
§12.22 Federal Common Law 12–258
§12.23 Joint Liability: Traditional Applications 12–258
§12.24 Industrywide Liability and Related Issues 12–260
§12.25 Class Actions: Commonality 12–307
§12.26 Sellers and Providers: Conclusion 12–308
# Contents

## Chapter 13
**SUCCESSOR CORPORATIONS**

- §13.01 General Rule and Principal Exceptions
- §13.02 Assumption of Liabilities
- §13.03 De Facto Mergers
- §13.04 Stripping Subsidiaries: “Dual Capacity”
- §13.05 Continuation Exception
- §13.06 Successor’s Duty to Warn
- §13.07 “Product-Line” Exception
- §13.08 Focal Elements of Recovery Illustrated
- §13.09 Policy Arguments
- §13.10 Further Theoretical Development
- §13.11 Particularized Issues in Liability Extensions
- §13.12 Loss-Avoidance Strategies

## Chapter 14
**ADJUSTING LIABILITIES AMONG DISTRIBUTORS: CONTRIBUTION, INDEMNITY, AND COMPARATIVE APPORTIONMENT**

- §14.01 Contribution
- §14.02 Effects of Theories on Apportionment Remedies
- §14.03 Settlements
- §14.04 Indemnity
- §14.05 Written Agreements
- §14.06 Implied Indemnity
- §14.07 Legal and Practical Consequences of Indemnity
- §14.08 Comparative Apportionment

## Chapter 15
**THE ROLE OF WORKERS’ COMPENSATION**

- §15.01 Tort vs. Workers’ Compensation
- §15.02 Employee Suits
- §15.03 Manufacturers and Employers
- §15.04 Insurer Reimbursement
- §15.05 Third-Party Recoveries Permitted
- §15.06 Reform Proposals

## Chapter 16
**THE CONSUMER CHAIN**

- §16.01 Purchasers, Users, and Consumers
- §16.02 Bystanders
## PART IV

RISK ALLOCATION THROUGH BARGAINING AND PROVISION OF INFORMATION

### Chapter 17

**DISCLAIMERS**

| §17.01 | Contract Perspective | 17–4 |
| §17.02 | U.C.C. Section 2–316 | 17–5 |
| §17.03 | U.C.C. Section 2–719: Limitation of Remedies | 17–7 |
| §17.04 | Drafting Advice | 17–19 |
| §17.05 | Consumer Obligations | 17–21 |
| §17.06 | Construction Issues and Policy Questions | 17–21 |
| §17.07 | Legislative Prohibitions of Disclaimers | 17–23 |
| §17.08 | Express Warranty | 17–24 |
| §17.09 | Disclaiming Negligence | 17–24 |
| §17.10 | Strict Liability | 17–28 |
| §17.11 | Third Parties | 17–34 |
| §17.12 | Conspicuousness | 17–35 |
| §17.13 | General Advice for Drafters | 17–39 |

### Chapter 18

**USED PRODUCTS**

| §18.01 | Introduction | 18–1 |
| §18.02 | Commercial Law | 18–2 |
| §18.03 | Negligence and “As Is” Clauses | 18–4 |
| §18.04 | Third Parties as Plaintiffs | 18–5 |
| §18.05 | Strict Liability | 18–7 |

### Chapter 19

**DUTY TO WARN**

| §19.01 | Introduction and Definitions | 19–3 |
| §19.02 | Standard of Care | 19–17 |
| §19.03 | Ordinary Products | 19–25 |
| §19.04 | Warning Alternatives | 19–27 |
| §19.05 | Layered Risks | 19–28 |
| §19.06 | Technology Oriented Products | 19–28 |
| §19.07 | Distinctions Among Distributors | 19–62 |
| §19.08 | Information Costs | 19–121 |
| §19.09 | Role of Doctrine | 19–132 |
| §19.10 | Consumer Information | 19–157 |
| §19.11 | Conceptual Overlaps | 19–170 |
| §19.12 | Adequacy of Warnings | 19–238 |
| §19.13 | Materiality and Causation | 19–277 |
Chapter 20
CONTRIBUTORY NEGLIGENCE AND ASSUMPTION OF RISK  20–1
§20.01 Contributory Negligence  20–2
§20.02 Comparison of Contributory Negligence and Assumption of Risk  20–41
§20.03 Assumption of Risk  20–43
§20.04 Functional Environment: Industrial Machines  20–84
§20.05 Obviousness  20–88
§20.06 Conceptual Linkages  20–93

VOLUME III

PART V
CONSUMER CONDUCT

Chapter 21
MISUSE  21–3
§21.01 Doctrine and Terminology  21–4
§21.02 Conceptual and Functional Boundaries  21–4
§21.03 Intended Use  21–27
§21.04 Instructions and Warnings  21–33
§21.05 Functional Classifications  21–36
§21.06 Counseling Notes  21–43
§21.07 Boundaries of Permissible Use  21–44
§21.08 Conceptual and Doctrinal Relationships  21–45
§21.09 Overuse  21–65
§21.10 Third-Party Misuse and Jury Instructions  21–65
§21.11 Chain of Distribution  21–66
§21.12 Burden of Proof  21–67
§21.13 Implications for Intimate Inquiries  21–68

Chapter 22
COMPARATIVE DOCTRINES: FAULT, CAUSATION, AND LIABILITY  22–1
§22.01 Defining the Problem  22–2
§22.02 Negligence  22–3
§22.03 Strict Liability  22–3
§22.04 Comparative Principles and Warranty  22–13
§22.05 Comparative Principles Favoring Defendant  22–15
§22.06 Policy Arguments Concerning Comparison in Strict Liability  22–17
§22.07 Principles of Apportionment  22–19
## CONTENTS

§22.08 Causation as Comparative Benchmark 22–20  
§22.09 Other Parties 22–26  
§22.10 Judicial Rejections of Comparative Principles 22–31  
§22.11 Exhortation Against Alternative Pleading 22–32  
§22.12 Plaintiff Employs Comparative Fault 22–33  
§22.13 Specialized Applications of Comparative Principles 22–33  
§22.14 Misrepresentations and Economic Loss 22–36  
§22.15 Nature of Plaintiff’s Conduct 22–36  
§22.16 Functional Applications 22–42  
§22.17 Theory and Practice 22–47

PART VI  
PROBLEMS OF PROOF AND CAUSATION

Chapter 23  
GENERAL LEGAL PRINCIPLES OF PROOF AND CAUSATION 23–3  
§23.01 Semantics and Doctrine 23–4  
§23.02 Theories of Liability 23–5  
§23.03 Basic Elements of Proof 23–5  
§23.04 Sufficiency of Evidence 23–89  
§23.05 The Role of Presumptions 23–202  
§23.06 Previous and Subsequent Occurrences 23–202  
§23.07 Experts 23–229  
§23.08 Proper Inferences 23–294  
§23.09 Defect, Causation, and Materiality 23–300  
§23.10 Warranty Claims 23–305  
§23.11 Consumer Information: “Lemon” Vehicles 23–305  
§23.12 Circumstantial Evidence 23–306  
§23.13 Demonstrative Evidence; Tests After Accident 23–383  
§23.14 Agency Reports 23–385  
§23.15 Proof Burdens 23–388

Chapter 24  
RES IPSA LOQUITUR AND RELATED DOCTRINES OF INFERENCE 24–1  
§24.01 Doctrine and Function 24–1  
§24.02 Definitions of Res Ipsa Loquitur 24–2  
§24.03 Control 24–3  
§24.04 Procedural Conceptualization of Res Ipsa 24–7  
§24.05 Occurrence of Accident Insufficient Evidence 24–9  
§24.06 “Ordinarily Does Not Occur” and Experience 24–12  
§24.07 Flexibility of Doctrinal Elements 24–14  
§24.08 Causation 24–16  
§24.09 Significant Matters in Res Ipsa Analysis 24–16  
§24.10 Defect and Proof of Defect 24–34
§24.11 Theories of Liability 24–37
§24.12 Clusters of Uncertain Facts: Illustrative Cases 24–38

Chapter 25
REMEDIAL CHANGES 25–1
§25.01 General Rule of Inadmissibility 25–1
§25.02 Exceptions 25–5
§25.03 Substantive-Procedural Distinction 25–20
§25.04 Focus on Strict Liability 25–21
§25.05 Explaining Remedial Measures 25–32
§25.06 Recalls 25–33
§25.07 Postmanufacture, Preaccident Modifications 25–36

VOLUME IV
PART VII
SPECIAL PROBLEMS OF CHARACTERIZATION

Chapter 26
THEORIES OF LIABILITY IN CONFLICT 26–3
§26.01 Representational vs. Nonrepresentational Theories 26–4
§26.02 Use of Multiple Doctrines 26–7
§26.03 Tort vs. Contract: Strict Liability and Warranty 26–8
§26.04 Strict Liability and Negligence 26–27
§26.05 Warranty and Negligence 26–46
§26.06 State Products Liability Statutes 26–50
§26.07 Consumer Protection Statutes 26–53
§26.08 Special Problems of Characterization 26–54
§26.09 Reillustration of Doctrinal Richness 26–55
§26.10 Various Species of Theories 26–56

Chapter 27
THE ECONOMIC LOSS PROBLEM 27–1
§27.01 An Overview of the Problem 27–2
§27.02 Foundations of Modern Controversy 27–3
§27.03 Commercial Plaintiffs 27–12
§27.04 Other Doctrinal Applications 27–27
§27.05 “Property Damage” 27–36
§27.06 Paradigm of Theoretical Difficulties: A Texas Trilogy 27–107
§27.07 Conceptual and Policy Arguments 27–109
§27.08 Suits by Governmental Entities for Expenses Attributing to Products 27–113
§27.09 Need for Flexibility 27–114
§27.10 The Puzzle Restated 27–119
## Contents

**Chapter 28**

**Characterization and Statutes of Limitations**

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
<th>Pages</th>
</tr>
</thead>
<tbody>
<tr>
<td>§28.00</td>
<td>Substance or Procedure</td>
<td>28–1</td>
</tr>
<tr>
<td>§28.01</td>
<td>Tort Over Contract</td>
<td>28–2</td>
</tr>
<tr>
<td>§28.02</td>
<td>Choice Among Limitations</td>
<td>28–9</td>
</tr>
<tr>
<td>§28.03</td>
<td>Time of Accrual</td>
<td>28–10</td>
</tr>
<tr>
<td>§28.04</td>
<td>Preference for “Contract”</td>
<td>28–11</td>
</tr>
<tr>
<td>§28.05</td>
<td>Negligence/“Products Liability”: Statutory Language</td>
<td>28–14</td>
</tr>
<tr>
<td>§28.06</td>
<td>“Contract” vs. “Implied Warranty”</td>
<td>28–16</td>
</tr>
<tr>
<td>§28.07</td>
<td>Relationship to Other Statutes of Limitations</td>
<td>28–17</td>
</tr>
<tr>
<td>§28.08</td>
<td>Products Liability Statutes and the Common Law</td>
<td>28–18</td>
</tr>
<tr>
<td>§28.09</td>
<td>Prior Pleadings: Notice Standard</td>
<td>28–18</td>
</tr>
</tbody>
</table>

**Part VIII**

**Remedies and Procedures**

**Chapter 29**

**Punitive Damages**

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
<th>Pages</th>
</tr>
</thead>
<tbody>
<tr>
<td>§29.01</td>
<td>Identifying the Issues</td>
<td>29–3</td>
</tr>
<tr>
<td>§29.02</td>
<td>Doctrinal Controversy Over Strict Liability</td>
<td>29–4</td>
</tr>
<tr>
<td>§29.03</td>
<td>Verbal Threshold</td>
<td>29–9</td>
</tr>
<tr>
<td>§29.04</td>
<td>Significant Elements of Judicial Concern</td>
<td>29–14</td>
</tr>
<tr>
<td>§29.05</td>
<td>Proposed Refinements</td>
<td>29–28</td>
</tr>
<tr>
<td>§29.06</td>
<td>Pleading and Summary Judgment</td>
<td>29–64</td>
</tr>
<tr>
<td>§29.07</td>
<td>Issues Impinging on Other Legal Categories</td>
<td>29–66</td>
</tr>
<tr>
<td>§29.08</td>
<td>Rehearsal of Rationales</td>
<td>29–73</td>
</tr>
<tr>
<td>§29.09</td>
<td>Amount of Award</td>
<td>29–76</td>
</tr>
<tr>
<td>§29.10</td>
<td>Assessing Punitive Damages</td>
<td>29–81</td>
</tr>
</tbody>
</table>

**Chapter 30**

**Statutes of Limitations and Repose**

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
<th>Pages</th>
</tr>
</thead>
<tbody>
<tr>
<td>§30.01</td>
<td>Defining the Problem</td>
<td>30–3</td>
</tr>
<tr>
<td>§30.02</td>
<td>Uniform Commercial Code</td>
<td>30–3</td>
</tr>
<tr>
<td>§30.03</td>
<td>Time of Injurious Occurrence</td>
<td>30–12</td>
</tr>
<tr>
<td>§30.04</td>
<td>“Continuing Events” Rule</td>
<td>30–14</td>
</tr>
<tr>
<td>§30.05</td>
<td>Discovery: The Basic Dispute</td>
<td>30–19</td>
</tr>
<tr>
<td>§30.06</td>
<td>Discovery Principle Amplified and Opposed</td>
<td>30–33</td>
</tr>
<tr>
<td>§30.07</td>
<td>Significant Factors in Discovery Issues</td>
<td>30–112</td>
</tr>
<tr>
<td>§30.08</td>
<td>Functional Battlegrounds of Discovery Principle</td>
<td>30–125</td>
</tr>
<tr>
<td>§30.09</td>
<td>Issues Related to Discovery Principles</td>
<td>30–132</td>
</tr>
<tr>
<td>§30.10</td>
<td>Economic Loss</td>
<td>30–143</td>
</tr>
<tr>
<td>§30.11</td>
<td>Particularized Limitations Statutes: Patent Deficiency</td>
<td>30–143</td>
</tr>
</tbody>
</table>
§30.12 Statutes of Repose 30–144
§30.13 Statutes Extending Limitations Periods 30–222

Chapter 31
JURISDICTION AND PROCEDURE 31–1
§31.01 Jurisdiction 31–1
§31.02 Collateral Estoppel 31–44

PART IX
GENERAL LEGAL ISSUES

Chapter 32
EXTENDED CONSEQUENCES: DUTY AND PROXIMATE CAUSE 32–3
§32.01 Introduction 32–3
§32.02 Unusual Consequences 32–6
§32.03 Activities Under Pressure of Events 32–18
§32.04 Independent Response to Defect 32–19
§32.05 Intervening Modifications 32–25
§32.06 Intervening Conduct of Plaintiffs 32–66
§32.07 Replacement Products 32–71
§32.08 Third-Party Conduct 32–71
§32.09 User's Emotional Distress 32–91
§32.10 Medical Monitoring 32–99
§32.11 Plaintiff Sensitivity 32–104
§32.12 Third-Party Emotional Distress 32–105

PART X
LEGISLATION

Chapter 33
STATE STATUTES 33–3
§33 Generally 33–3

PART XI
COMPARING PRODUCTS LIABILITY: CONCEPTS IN EUROPEAN AND
AMERICAN LAW

Chapter E1
OVERVIEW E1–3
§E1 Comparisons of Legal Doctrines and Systems of Law E1–3

Chapter E2
PRODUCTS AND CONSUMERS E2–1
§E2.01 Products E2–1
§E2.02 Consumers E2–3
## CONTENTS

Chapter E3  
**PRODUCERS**  
§E3.01 Generally  
§E3.02 Components and Raw Materials  
§E3.03 Trademarks and Trade Names  
§E3.04 Importers  
§E3.05 Leasing  
§E3.06 Suppliers  

Chapter E4  
**DAMAGES**  
§E4.01 Generally  
§E4.02 Economic Loss  

Chapter E5  
**THEORY OF LIABILITY: STRICT LIABILITY**  
§E5 Generally  

Chapter E6  
**DEFECT**  
§E6.01 General Definition  
§E6.02 Consumer Expectations  
§E6.03 Potential Issues  
§E6.04 Impact of Technological Improvement  

Chapter E7  
**WARNINGS**  
§E7.01 Definitional Questions  
§E7.02 Potential Issues  
§E7.03 Modes of Argument: The Uses of Power and Information Costs  

Chapter E8  
**DEFENSES**  
§E8.01 Product Not Put in Circulation  
§E8.02 Defect Not Existing When Product Marketed  
§E8.03 Not Manufactured for Sale or Distribution  
§E8.04 Compliance with Public Regulations  
§E8.05 Defect and Defenses: Competing Values  

Chapter E9  
**PROOF**  
§E9.01 Causation
CONTENTS

Chapter E10
APPORTIONMENT OF LIABILITIES E10–1
§E10.01 With Plaintiffs E10–1
§E10.02 Among Third Parties E10–3

Chapter E11
REPOSE AND LIMITATIONS E11–1
§E11.01 Limitations: Discovery Rule E11–1
§E11.02 Repose Period E11–3

Chapter E12
CONTRACTING OUT: PROHIBITION OF EXCLUSIONS E12–1
§E12 Disclaimers and Limitations of Liability E12–1

Chapter E13
REMEDIES E13–1
§E13.01 Directive's Preservation of Remedies E13–1
§E13.02 Damages Limitations E13–2

Chapter E14
ASSESSMENT E14–1
§E14.01 A Law Being Born E14–1
§E14.02 Policy Goals: Balancing and Thrust E14–2
§E14.03 Consumer Protection: Definitional Issues and Basic Commitments E14–4

Table of cases TC-1
Index IN-1