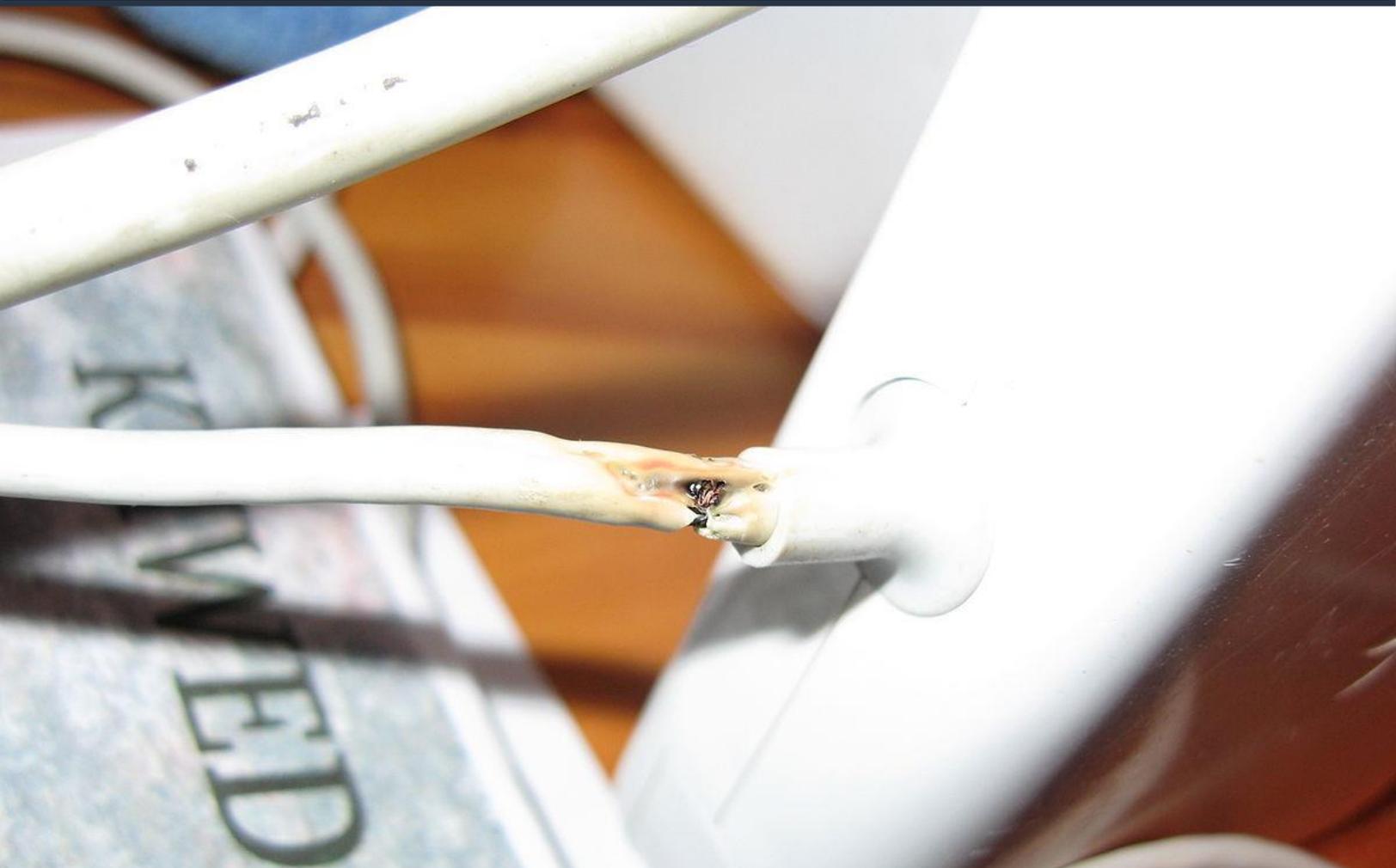


# WHAT IS A DEFECTIVE PRODUCT LIABILITY CLAIM IN CALIFORNIA?

*“In the event a product turns out to be unsafe or in violation of promises made by manufacturers, consumers have rights.”*



**MICHAEL D. WAKS**  
LONG BEACH PERSONAL INJURY ATTORNEY



California and the federal government have many laws designed to protect the safety of consumers. Several federal agencies are charged with enforcing rules and regulations and with initiating or overseeing recalls when products turn out to be dangerous. Manufacturers have obligations to consumers under these state and federal laws, and must make sure they conduct necessary testing before their products are released to the marketplace. Manufacturers make promises about the safety of their products to consumers through express warranties, and laws impose some implied warranties such as the implied warranty of the fitness of a product for a particular purpose.

In the event a product turns out to be unsafe or in violation of promises made by manufacturers, consumers have rights. A defective product liability claim is the type of litigation that allows a consumer to pursue a case against a manufacturer when a product does not perform as promised. Defective product cases can be made when a product simply fails to provide its advertised features and benefits. In some tragic cases, defective product claims are made after consumers suffer serious physical injuries as a result of problems with products.

## **WHAT IS A DEFECTIVE PRODUCT LIABILITY CLAIM?**

A defective product liability claim is made when a consumer files a civil lawsuit against the manufacturer of a product. Consumers harmed by products can sue in state or federal court, depending upon the extent of their losses and where the product was manufactured.

A plaintiff in a defective product liability claim must prove some basic elements of the case against the product manufacturer in order to prevail and be awarded compensation. A plaintiff must show:

- The manufacturer had some obligation to him, like the obligation to make a safe product or the obligation to provide a product that was fit for its intended use;
- The manufacturer failed in that obligation; and,
- Some type of harm, including physical injury or loss of money or loss of use of the product, occurred as a result of the failure of the manufacturer.

It is also up to a plaintiff to show the extent of the damage and loss sustained due to the problem with the product. Because a defective product liability claim is a civil claim, a plaintiff must prove the case against the product manufacturer by a preponderance of the evidence.



There are different ways a product liability claim can be proved. Strict liability laws generally apply. Strict liability means a manufacturer is always responsible for injuries that occur if the product is being used the way the manufacturer intended it to be used. When a plaintiff makes a case under strict liability laws, the plaintiff does not have to prove the manufacturer was negligent, careless, or did anything wrong. Simply releasing a product that causes harm is enough to make the

manufacturer responsible for the losses that occur as a result of the dangerous product.

A plaintiff can also make a case based on negligence, design defects, failure to warn about product dangers, or breach of express or implied warranties. In many cases, plaintiffs make multiple legal arguments. Making multiple arguments and providing different grounds for liability can help a plaintiff in a defective product liability claim make a stronger case.

## **HOW ARE DEFECTIVE PRODUCT LIABILITY CLAIMS RESOLVED?**

When a product fails to work, often many people throughout the country get hurt or suffer losses as a result. Because of this, many product liability claims become mass tort cases.



Class actions are a very well-known type of mass tort case. In a class action, all the victims harmed file one big personal injury case. They are all plaintiffs in one claim against the defendant manufacturer. There are usually a few “named” plaintiffs who are

actively involved in working with attorneys who move the case forward. The other plaintiffs simply join the class and get whatever money is available through a settlement or as a result of a court verdict. Joining a class can mean losing control of a product liability claim.

Multi-district litigation is a different type of mass tort case. All plaintiffs retain their own separate cases and their autonomy over their claims. The cases are all moved to one court, before one judge, who is able to make decisions just once on some of the issues impacting all claims, instead of many judges having to make decisions on similar issues that arise.

## **A LONG BEACH PRODUCT LIABILITY ATTORNEY CAN HELP**

### ***Your Injuries are Personal to Me***

An experienced attorney can provide guidance and advice on how to resolve product liability claims. Contact the Law Office of Michael D. Waks for assistance with your case if you believe you have been harmed by a product. A Long Beach injury lawyer will guide you through the process of making a claim.

Call the Law Office of Michael D. Waks at [888-394-1174](tel:888-394-1174) or use the convenient [online contact form](#) to schedule a free consultation. You are under no obligation and you will never pay any money unless you recover damages for your injuries. I offer bilingual services as part of my comprehensive approach to legal representation and I am available 24/7 to talk to you about your case.

## About the Author



### Michael D. Waks

Personal injury victims need someone who understands their pain, who is invested in them and will guide them through the complicated maze of their medical and legal worries. They need an attorney who cares about them and their families.

My name is Michael Waks and I am a personal injury attorney in the Los Angeles Area focused on the needs of people who have suffered because of someone else's actions.

While still attending Southwestern University School of Law, I clerked for a big defense law firm that represented manufacturers of asbestos. I read the files and met the people whose lives were ruined by asbestos and I knew, for the rest of my career, I wanted to help people like them: the victims, not the perpetrators.

I have been doing just that for over 30 years. As soon as I passed the Bar I opened the Law Office of Michael D. Waks in Long Beach and began exclusively representing seriously injured accident victims. I decided to be a sole practitioner so I could handle every case personally. I understand clients are different and that in the wake of an accident their suffering will be unique, ranging from physical and financial to emotional.

I tell my clients from the start, "I want you to only worry about one thing, and that is to do exactly what your doctor tells you in order to get better. Leave the rest to me."

## MICHAEL D. WAKS

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