

Publisher’s Note

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PRODUCT LIABILITY: CANADIAN LAW & PRACTICE by Lawrence G. Theall, J. Scott Maidment, Teresa M. Dufort and Jeffery Brown 2024
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What’s New in this Update:

This year’s release has been converted into a more user-friendly softbound book. Subscribers will receive a softbound book to replace any relevant revised content within the work. This should greatly improve the reader’s experience in terms of filing pages within a limited binder system--allowing the work to easily expand as discussion of the law dictates.

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This publisher’s note may be scanned electronically and photocopied for the purpose of circulating copies within your organization.

This unique resource serves as a legal reference and practical guide — offering insight into the tactics and strategies used to effectively bring and defend a product liability case. This vital text includes: a review of substantive law of product liability; an examination of procedural law as it relates to product liability actions; a discussion of tactical and strategic issues and considerations; and checklists and precedents.

Filing Instructions:

REMOVE and RECYCLE the entire hard-cover binder treatise set.
PLACE the new 2024 soft-cover pamphlet edition in your library.

HIGHLIGHTS

Chapter 9 — Liability for Economic Loss — III. Categories of Pure Economic Loss — § 9:9. Shoddy Products — In *Palmer v. Teva Canada Limited*, 2024 ONCA 220, the Ontario Court of Appeal rejected the argument that exposure to chemicals in a contaminated pharmaceutical product, which modestly increased the risk of cancer, was not compensable because the product was not imminently dangerous.

Chapter 4 — Breach of Warranty and Representations — Limiting Liability for Warranties — § 4:22. Warranties versus Conditions — In *Earthco Soil Mixtures Inc v Pine Valley Enterprises Inc.*, 2024 SCC 20, a contractor, Pine Valley, purchased topsoil from Earthco on an urgent basis. Earthco provided Pine Valley with lab reports for three topsoil samples that might satisfy the project requirements, but warned Pine Valley that the tests were old. Earthco advised Pine Valley that further testing would be required to ensure that the topsoil would meet Earthco’s drainage requirements, and that if Pine Valley wanted the topsoil without further testing, it was at Earthco’s own risk. Since Pine Valley required the topsoil urgently, Earthco added an exclusion clause to the supply contract, stating that Earthco would not be responsible for the quality of the material once it leaves their facility. The topsoil did not have the proper composition to meet drainage requirements, and Pine Valley sued Earthco. The Supreme Court of Canada used this case to eliminate the requirement that a seller must expressly exclude “conditions” in order to exclude the implied conditions under the *Sale of Goods Act*. Instead, the wording of the exclusion is one factor to take into account when determining whether the exclusion is effective.

Appendix L — Certification for Product Class Actions in Canadian Common Law Jurisdictions, new case law has been added in the chart such as *Williamson v. Johnson & Johnson*, 2020 CarswellBC 2880, 2020 BCSC 1746, and *Kett v. Mitsubishi Materials Corporation*, 2020 CarswellBC 3078, 2020 BCSC 1879.

Appendix SLL — Three new headings have been added: Data Protection, Damages, and Product Liability — Chemicals.