

A case that still sits with me started with a cheap aluminum ladder. My client had used ladders on construction sites for two decades without an incident. This one flexed in a way that did not feel right from the first climb. The third time up, one side rail buckled near a rivet. He fell eight feet and crushed his ankle. The manufacturer blamed “misuse.” We brought in a metallurgist who mapped fatigue lines and identified a thin-walled extrusion that ran out of tolerance. The buckle point sat right where the metal thinned beyond the spec window. The jury needed little convincing once they saw the cutaway and the test results side by side. It was a manufacturing defect hiding in plain sight.

That ladder case illustrates a broader truth. Product injury claims often turn on details few people see at first glance. The device might fail on a hot day because a polymer loses stiffness at specific temperatures. A gas can might flash because a flame arrester was omitted to shave cost. A medication label might skip a warning because a risk seemed statistically small at the time of approval. Each path looks different, but the work of a personal injury attorney follows the same arc: find the failure, prove the link to the injury, and frame the responsibilities clearly enough that a judge or jury can follow the chain.

## **What product liability really covers**

Product liability spans almost anything made and put into the stream of commerce. The law reaches consumer goods, industrial equipment, medical devices, pharmaceuticals, automotive components, even food. The core idea is approachable: companies that design, make, and sell products must deliver items that are reasonably safe for their intended and foreseeable uses. When a defect makes a product unreasonably dangerous and that defect causes harm, the law can make the responsible parties pay for the losses.

There are three main ways a product goes off the rails. Lawyers and courts call them design defects, manufacturing defects, and failures to warn. These categories overlap in the real world, but they help organize proof.

- A design defect means the blueprint itself is unreasonably dangerous. Every unit leaves the factory with the same hazard baked in. Think of a space heater that tips over too easily because of its narrow base, or a power tool without a guard that could have been added for a few dollars and almost no weight penalty.
- A manufacturing defect means the design was fine on paper, but something went wrong in production. Wrong resin batch. Voids in a molded part. A missing weld on one chassis out of a thousand. The product that hurt you deviated from the safe plan.
- A failure to warn or instruction defect addresses risks that remain even with a proper design and sound manufacturing. Some products cannot be made perfectly safe. The law expects adequate warnings and instructions that give users the information needed to avoid foreseeable injuries. Pharmaceutical cases often live here, along with chemicals, saw blades, and heavy machinery.

Clients sometimes ask whether product liability is “strict liability.” That depends on the jurisdiction and the claim. Many states, including Colorado, allow strict liability for certain defect theories, particularly manufacturing defects. Strict does not mean automatic. You still have to prove the product was defective and the defect caused the injury. Negligence claims also remain available, and they widen the lens to company conduct. Experienced litigators often plead both and develop evidence for each.

## **How defects hide, and how we find them**

Defects are rarely obvious to a layperson at the moment of injury. By the time an accident attorney hears about the incident, the product might be in a dumpster or sitting in a closet with new damage from handling. Time works against you. Heat cycles, weather, and even household dust can change the condition of a failed item. Building a product case means respecting the evidence like a crime scene.

In a bicycle fork failure, for example, we subpoenaed warehouse records to confirm lot numbers, traced the resin supplier, and found an internal corrective action triggered by overspeeding a curing oven. Ten degrees and six minutes off spec looked trivial in a spreadsheet. Under a microscope, it produced microvoids that linked straight to a brittle fracture. In a home oxygen machine fire, we recreated the incident with exemplar units and a fire investigator to rule out external ignition sources. That is often the rhythm: isolate the defect, rule out alternate causes, and anchor each step with documentation or testing that can survive a Daubert challenge.

The practical toolkit includes:

- Non-destructive evaluation, like CT scanning, dye penetrant, and SEM imaging, to map internal flaws without altering the evidence.
- Materials testing for tensile strength, creep, and fatigue, matched against the product's design specs.
- Human factors analysis to understand how real people reasonably interact with a product, where they look for warnings, and how they process instructions under time pressure.
- Accident reconstruction when a product failure plays into vehicle dynamics or falls.
- Regulatory and standards research, such as ANSI, ASTM, UL, and ISO provisions, to show what reasonable design and testing look like in that industry.

Good cases take shape when the testing story is coherent enough to teach. Jurors do not need to read a phase diagram of aluminum alloys. They do need to see how the choice to skip a gusset at a high stress point saves pennies and costs bones.

## **Warnings that work, and ones that fail**

Warnings and instructions can win or lose a case. A personal injury lawyer spends a surprising amount of time reading labels, manuals, and packaging. Warnings fail for familiar reasons. They are buried in dense paragraphs, printed in low contrast, or written at a reading level beyond the target user. The timing is off, with the key message hidden after assembly steps instead of before.

Human factors experts can show how a typical user perceives risk. A good warning is short, placed where eyes land during the relevant action, and paired with a simple icon. "Keep hands clear" above a pinch point is better than two pages of generalized caution. The defense often argues that the hazard was open and obvious, or that no warning could have prevented the injury. That argument loses steam when prior incident data, consumer complaints, or near miss reports show a pattern pointing to the need for a clearer message or a design guard that makes the warning secondary.

In drug and medical device cases, the learned intermediary doctrine often shifts the duty to warn. Manufacturers must give adequate warnings to the prescribing physician, who then advises the patient. That structure does not let a company bury a known risk in a forest of technical jargon. It does mean the medical record and the dialogue between doctor and patient matter as much as the label itself.

## **The Colorado angle and why it matters**

Clients in Denver and along the Front Range ask whether product cases differ here. Some rules do.

Colorado recognizes strict liability for certain product defects, alongside negligence claims. For design defects, courts often weigh risk and utility. Jurors consider the gravity of the danger, the feasibility and cost of safer designs, and the effect on product utility. A safer alternative design is not always mandatory, but it is persuasive. In manufacturing defect claims, deviation from the intended design remains the center of gravity.

Timing rules carry special weight. Colorado generally applies a two year statute of limitations to product liability claims, with a discovery rule that starts the clock when a person knew or should have known of the injury and its likely cause. There is also a statute of repose that can bar claims after a certain number of years from the product's first sale, even if you did not discover the defect until later. The number depends on product type and exceptions, so a quick consult with a Denver personal injury lawyer can keep a good case from dying on a technicality. If a motor vehicle collision figures into the facts, a separate three year clock can interact with the product claim, which adds another layer to the calendar.

Colorado uses modified comparative negligence. If a plaintiff is 50 percent or more at fault, recovery is barred. Below that threshold, damages are reduced by the percentage of fault. In product cases, this surfaces as alleged misuse or failure to follow instructions. The misuse defense sticks only when the use was not reasonably foreseeable. Most of us have used a chair as a step stool. If a manufacturer knows that and can add an inexpensive guard or warning that improves safety, "you should not have done that" becomes a shaky defense.

Retailers and distributors in Colorado may claim limited liability as innocent sellers. They can be dismissed if the actual manufacturer is identified and subject to the court's jurisdiction, unless the seller exercised significant control over the product or knew about the defect. This shifts focus to upstream companies, sometimes overseas, which affects service of process and discovery strategy.

Colorado law caps non-economic damages in most injury cases, including product claims. The exact amounts adjust periodically for inflation and depend on the date of the injury and the claim type. Courts can increase the cap with strong proof of exceptional circumstances, but planning around the cap remains part of case valuation. Punitive damages are available when conduct involves fraud, malice, or willful and wanton behavior. In general, punitive awards are limited to an amount equal to compensatory damages, with narrow paths to increase that if the wrongful conduct continues during the case.

Hospital and insurer liens also come into play. Colorado [Denver personal injury lawyer](#) recognizes hospital liens and allows health plans to assert subrogation rights. Medicare and Medicaid have their own rules and repayment obligations. A personal injury attorney who handles product cases will track these from day one so a settlement does not unravel at the end.



## **Defenses and edge cases that change the outcome**

Defense playbooks in product cases are not subtle. They pivot on alternate causation, product alteration, misuse, compliance with standards, and preemption. Some of these stick, some do not.

Alternate causation sounds like this: the ladder was dented after the fall, not before; the airbag failed because the crash delta-V did not reach deployment thresholds; the battery vented due to an aftermarket charger. These arguments require careful sequencing of the evidence and, often, exemplar testing. When the failure surface tells a unidirectional story, alternate causation loses oxygen.

Alteration matters when a product left the manufacturer in a safe condition, then changed in a way that created the hazard. A forklift modified to lift people using a home-built cage can shift liability away from the maker. The key is whether the alteration was foreseeable to the manufacturer and whether the design invited it.

Compliance with safety standards is relevant but not dispositive. Meeting a voluntary consensus standard like ANSI can show reasonable care. Failing to meet it can look damning. Juries understand that a checkbox approach to safety is different from robust engineering, especially when internal emails weigh savings against known incident data.

Preemption looms in pharmaceuticals and medical devices. Federal law can bar certain state law claims that conflict with FDA approvals and requirements. Class III medical devices with premarket approval often trigger express preemption that limits state design defect claims. Drug labeling claims can run into impossibility preemption if a manufacturer could not have changed the label under federal law. This is not a dead end. Claims based on a failure to report new risks to the FDA, or on violations of federal requirements that parallel state duties, can proceed. These are technical fights that demand a tight pleadings strategy.

The learned intermediary doctrine, mentioned earlier, also recurs in drug and device cases. The quality of the conversation between doctor and patient bears on causation. Did the physician receive an adequate warning? Would a different label have changed the prescribing decision? Would the patient have consented if told the risk? Medical records, depositions, and even clinic workflow audits become evidence.

Government contractor defenses appear when military equipment fails. They require proof that the government approved reasonably precise specifications, the equipment conformed to those specs, and the supplier warned

the government about known dangers. These cases call for careful handling of classified and sensitive materials. They rarely overlap with consumer product claims, but when they do, the posture changes quickly.

## What to do when a product fails and someone is hurt

I have seen good claims falter because a well meaning family member threw away a key part during cleanup, or because a repair shop disassembled an appliance and erased the failure signature. A short, calm checklist helps.

- Preserve the product and everything attached to it, including packaging, receipts, and manuals. Store it in a safe, dry place. Do not attempt repairs or testing.
- Photograph the scene and the product from multiple angles, including any markings, lot numbers, and timestamps on digital displays.



- Write down what happened while details are fresh. Note who was present, the sequence of events, and any sounds, smells, or error codes.
- Seek medical care and follow through. The medical record is the backbone of a damages claim.
- Contact a qualified personal injury attorney or injury attorney team early. They can send preservation letters to the manufacturer, retailer, and insurer, and guide independent testing under protocols that preserve admissibility.



Five steps, done early, can raise the value of a case by a wide margin and prevent spoliation fights that waste months.

## Valuing a product injury claim

Valuation is not a formula. It is a range informed by the quality of liability proof, the severity and permanence of injuries, the jurisdiction, and the defendant's appetite for risk. Economic damages capture medical bills, projected future care, lost wages, and reduced earning capacity. Life care planners and vocational experts translate medical limitations into numbers. Non-economic damages account for pain, emotional distress, and loss of enjoyment of life, subject to state caps.

Future medical numbers drive negotiations in serious cases. A crush injury that requires a fusion today can lead to adjacent segment disease in five to ten years. A below-knee amputation carries lifelong prosthetic replacement and maintenance costs that easily top six figures over a couple decades. A traumatic brain injury, even a so called mild one, may carry subtle but real cognitive deficits that change a career path permanently. Good defense lawyers test these claims. They hire their own experts to project shorter treatment curves or lower wage loss. That is where work history, performance reviews, and testimony from supervisors carry surprising weight.

Liability strength moves numbers more than any other single factor. A clean manufacturing defect with internal emails about scrap rates and quality holds more settlement value than a close design case that pivots on dueling experts. The presence of a recall helps in some ways and hurts in others. Jurors may view a recall as an admission that something was wrong. On the other hand, recalls can complicate proof of causation, especially if the recall addresses a different mode of failure.

## How a case moves, and why patience pays

Product cases rarely settle fast. Manufacturers and their insurers want to see your evidence. They want to depose your client, your treating physicians, and your experts. They may ask to inspect and test the product under a joint protocol. A Denver personal injury lawyer familiar with these rhythms manages expectations early.

The sequence often looks like this. The attorney sends preservation letters to all potential defendants and their insurers, then files suit to stop the clock. Early discovery secures design documents, quality control records, and

incident reports. Protective orders control what stays confidential, and they can be a battlefield. Both sides retain experts. Testing occurs under agreed protocols, sometimes with a neutral lab and video documentation. Depositions follow. Mediation typically happens after expert disclosures, when each side has enough data to feel the risk.

A common friction point is access to internal documents. Defendants claim trade secret status. Courts balance the need for proof against legitimate confidentiality. In my experience, judges in Colorado take a pragmatic view. They will allow protective orders but expect disclosure of safety relevant information. Patience, respectful persistence, and a short list of the most critical documents move the needle better than sprawling, unfocused requests.

## **Individual suits, consolidated actions, and class cases**

Not every product case belongs in a class action. Classes work best when damages per person are small and the issues match across a broad group. Defect-driven personal injuries vary too much. One person loses time and mobility. Another loses a limb. Those cases land in individual suits or in consolidated proceedings like multidistrict litigation when many people are hurt by the same product. Consolidation can streamline discovery and expert work, but it can also slow resolution. An accident attorney with mass tort experience will weigh whether joining the big tent helps or whether you are better off pressing a single-plaintiff case in state court.

## **Settlement terms that matter beyond the dollars**

When a product case resolves, most clients focus on the number. That is fair. Hidden terms can change the real value. Confidentiality provisions can be strict, affecting your ability to discuss the case even with close colleagues. Non-disparagement language may limit public statements. Indemnity clauses can shift risk back onto a plaintiff if Medicare or a private plan asserts a lien later. Structured settlements can protect funds needed for long-term medical care but require careful planning to avoid tax and eligibility pitfalls for public benefits.

Defense counsel sometimes ask for the return or destruction of the product as part of the deal. That request deserves scrutiny. If other people are still being hurt by the same defect, removing that piece of evidence from the world can hinder future plaintiffs. Some courts will not enforce such terms if they undermine public safety.

## **Where an experienced lawyer earns the fee**

Product cases demand an unusual mix of skills. You need the curiosity to learn why a polymer crazes, the patience to chase a supplier in another time zone, and the judgment to know when an expert's theory will not survive cross. A personal injury lawyer who lives in this space keeps a stable of experts across disciplines, knows how to protect the product from spoliation claims, and has the financial backbone to front expensive testing and depositions. The work is not cheap. In a moderate case, expert costs can reach the mid five figures. In a catastrophic injury with complex engineering questions, budgets climb higher.

For clients along the Front Range, a Denver personal injury lawyer brings local court expectations, knowledge of state caps and lien procedures, and relationships that matter in mediation rooms. That hometown advantage does not decide cases, but it smooths the path.

## **Final thoughts from the trenches**

Defective products hide in the ordinary. A space heater that wobbles during a toddler's nap. A vape battery tossed into a pocket with keys. A medical implant that promised mobility and instead chewed up bone. I have

seen manufacturers do the right thing quickly when the facts are plain. I have also seen stonewalling that lasted years. The difference came down to evidence preserved early, experts engaged thoughtfully, and a narrative that matched human experience.

If you are hurt and a product may be involved, do the small things right: save the item, write down what happened, and get [Personal Injury Lawyer](#) medical care. Talk with an injury attorney who handles defect cases. Ask about statutes of limitations and repose, about how joint testing works, and how liens will be handled at the end. Insist that your lawyer explain not just what is possible, but what is likely.

On the lawyer side of the table, the work remains purposeful. These cases improve safety. After that ladder verdict, the manufacturer changed the extrusion spec and added a simple inspection step. They never said the verdict moved them. The new spec sheet did. That is a quiet victory you can point to years later, when another client calls with another ordinary product that behaved in an extraordinary way.

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## **FAQ About Personal Injury Lawyer**

### **Is it worth suing for personal injury?**

Suing for a personal injury is generally worth it if you have severe injuries, mounting medical bills, and lost wages. However, it is rarely worth the time and effort for minor bumps and bruises where you recover quickly.

### **What not to say to a personal injury lawyer?**

Never hide details, lie, or downplay your symptoms when speaking to a personal injury lawyer. Withholding information or fabricating details destroys your credibility, provides insurance companies an excuse to deny your claim, and makes it impossible for your attorney to properly advocate on your behalf.

### **How much do most personal injury lawyers charge?**

Most personal injury lawyers charge a contingency fee, meaning you pay nothing upfront. They take a percentage of your final settlement or jury verdict—typically ranging from 33% to 40%—and only get paid if you win your case.