07.08A STRICT LIABILITY IN TORT – SUPERSEDING CAUSE

 The defendant claims that if the product was defective, the defect in the product was not a legal cause of plaintiff's harm because another act or occurrence was a superseding cause of the plaintiff's harm. A defect in a product is not a legal cause of harm if some other act or occurrence is a superseding cause of the harm.

Another act or occurrence may be a superseding cause if both of the following statements are more likely true than not true:

 (1) the other act or occurrence was outside the scope of the foreseeable risk posed by the defect in the product, and had no reasonable connection to it; and

(2) in hindsight, it is highly extraordinary that the defect in the product would bring about the plaintiff's harm.

If you find that either one or both of these statements is untrue, then the other act or occurrence is not a superseding cause. However, if you find that both of these statements are true, then you may find that the other act or occurrence is a superseding cause and that the defect in the product was not a legal cause of the plaintiff's harm.

Use Note

Instruction 7.08A should be given if there is an intervening force that may constitute a superseding cause. Instruction 7.08A should be given after Instructions 7.07 (Legal Cause) and 7.08 (Multiple Causes).

Comment

The doctrine of superseding cause applies to claims for strict liability in tort. See Dura Corp. v. Harned, 703 P.2d 396, 402 (Alaska 1985); see also Keogh v. W.R. Grasle, Inc., 816 P.2d 1343 (Alaska 1991)(no error in instructing on superseding cause). A superseding cause instruction may be appropriate when a component part manufacturer alleges that the injury was caused by an inappropriate design decision by the manufacturer of a device into which the component part is incorporated, rather than by a defect in the component part. Colt Industries Operating Corp. v. Frank W. Murphy Manufacturer, Inc., 822 P.2d 925, 931 n. 7 (Alaska 1991).

For additional discussion of Alaska law on superseding causes, see the Comment to Instruction 3.07A.