**07.07 STRICT LIABILITY IN TORT – LEGAL CAUSE**

I will now define “legal cause” for you. A defective condition in a product is a legal cause of harm if it is a substantial factor in bringing about the harm.

A defective condition in a product is a substantial factor in bringing about the harm if it is more likely true than not true that:

(1) the defective condition in the product was so important in bringing about the harm that a reasonable person would regard it as a cause and attach responsibility to it; and

(2) the harm would not have occurred but for the defective condition of the product. (There is, however, one exception to the requirement that the harm would not have occurred but for the defective condition. If two separate forces operated to cause the harm, one because of the defective condition of the product and the other not, and each force by itself was sufficient to cause the harm, then the defective condition is a legal cause of the harm if you decide that the defective condition was so important in bringing about the harm that a reasonable person would regard the defective condition as a cause and attach responsibility to it).

# Use Note

This instruction should be used as the proximate cause instruction in products liability cases.

The bracketed language must be included if two or more forces are claimed to have operated to bring about the injury and each of them operating alone is sufficient to cause the injury. E.g., Yukon Equipment Inc. v. Gordon, 660 P.2d 428 (Alaska 1983).

If multiple or superseding causes are raised by the evidence, instructions on those doctrines should be given immediately following this instruction. See Instruction 07.08.

# Comment

See Comment to Instruction 03.06 and 03.07.

The Alaska Supreme Court has recognized that the “substantial factor” test governs product liability actions. See, e.g., Dura Corp. v. Harned, 703 P.2d 396, 406 (Alaska 1985); Keogh v. W.R. Grasle, Inc., 816 P.2d 1343, 1347 (Alaska 1991). Cf. Vincent v. Fairbanks Memorial Hospital, 862 P.2d 847 (Alaska 1993) (discussing similar legal cause concepts and instructions in negligence action).