

Tort reform shows how Oklahoma product liability law evolves

This Gavel to Gavel guest column, [originally published in The Journal Record](#) on June 4, 2015, contains insights by Phillips Murrah attorney Cody Cooper concerning Oklahoma Product Liability Law. Cody Cooper contributed to [“An Overview of Oklahoma Product Liability Law,”](#) co-authored by Phillips Murrah Directors Tom Wolfe and Lyndon Whitmire for the April 2015 edition of the [Oklahoma Bar Journal](#). View Cody Cooper’s [attorney profile here](#).



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Exploding gas cans, scolding-hot coffee, misfiring rifles, popping exercise balls and sticking gas pedals. What do these things have in common? Each of these products was the center of some of the most memorable product liability lawsuits.

Since *Kirkland v. General Motors*, the Oklahoma Supreme Court has recognized product liability claims and the law has continued to grow and evolve.

For simplicity's sake, law develops primarily in two ways: the Oklahoma Legislature enacts statutes and case law is developed from courts' opinions applying those statutes.

The Oklahoma Legislature creates the statutes by which claims and parties are governed and this has an obvious, direct impact in Oklahoma product liability actions.

Oklahoma courts then interpret these statutes and apply them in product liability lawsuits. The courts' decisions provide guiding authority on issues and allow parties to understand how laws will be applied in the future.

Both play critical roles, but can lead to conflict over how the law will ultimately operate. Such is the case currently with tort reform. In the past few years, wide-ranging legislative changes have caused conflict and consternation at the Capitol and in the courtroom.

Tort reform statutes have had widespread implications in product liability lawsuits, including caps on potential recoverable damages, providing substantial protection for product sellers, requiring plaintiffs to provide medical records, and shielding manufacturers from claims regarding inherently unsafe products.

In 2009, the Oklahoma Legislature passed House Bill 2818 (the 2009 Act), followed by a 2011 statute amending many parts of the 2009 Act. In 2013, several individual cases held tort reform unconstitutional, which led to the Oklahoma Supreme

Court striking the entire act as being unconstitutional for violation of the single-subject rule that requires that laws only address a single subject – to prevent logrolling. Later that year, the Oklahoma Legislature through a special session, modified and revived many of the laws struck down by the Oklahoma Supreme Court and enacted new ones.

The clash between legislators and Oklahoma courts make it difficult for parties to understand what the future holds for product liability law in Oklahoma. The only certainty is that the law will continue to evolve.