

**Defense Themes in Playground Equipment Warnings Cases**  
**By David N. Lutz, Norma M. Gant and Shane V. Bohnen**  
**Bowman and Brooke LLP<sup>1</sup>**

This is the first of regular features about product liability law as it affects playground equipment manufacturers. Product liability cases involve claims that the product was defective and unreasonably dangerous, either by design and/or because of failure to provide adequate warnings. This article will identify useful strategies for developing defense themes to claims that criticize your warnings.

The article covers the following:

**Open and Obvious** - There is no duty to warn of open and obvious dangers, or dangers commonly known in the community.

**Reasonably Foreseeable Hazards** - Manufacturers must warn of reasonably foreseeable dangers, that is, what someone will likely do rather than what is only possible to do.

**Sophisticated Purchaser** - The law creates a category of purchasers called sophisticated purchasers, and most schools and governmental entities that buy commercial playground equipment would be considered as this kind of purchaser. Sophisticated purchasers may be in a better position to foresee hazards than manufacturers.

**No One Rule Fits All** - It isn't practical to provide one set of warnings and instructions that will be appropriate for all customers and users.

**Common Sense** - It's not practical to give detailed instructions about proper use for each piece of equipment. Warnings should convey that which someone might not otherwise know or fully appreciate.

**Industry Standards and Custom** - Warnings should comply with or exceed industry standards and be consistent with industry custom.

**No Alternative Warning Would Have Mattered** - There must be a direct relationship between an inadequate warning and an injury. If a warning wasn't read or was unlikely to have been heeded, a plaintiff will have more difficulty establishing that an inadequate warning is relevant.

While warnings claims can be nebulous and abstract, these defense themes can focus the claims on common sense issues that may resonate with your jury or judge. The next feature in this space will be defense themes in a design case. To the extent you have experiences in the legal system that would benefit the industry, please share them with us so we may include them in upcoming reports. Product liability litigation is an area where the industry can share and collaborate to the benefit of all and IPEMA is a good conduit.

To read this article in its entirety, visit [www.ipema.org](http://www.ipema.org) and find it under News & Articles.

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<sup>1</sup> David Lutz (Minneapolis) and Norma Gant (Detroit) are partners and Shane Bohnen (Minneapolis) is an associate of Bowman and Brooke, a national law firm specializing in the defense of product liability cases.