



## **TORT LIABILITY IN THE STANDARDS WORLD**

2007 ANSI Legal Issues Forum



4737025 *American National Standards Institute*



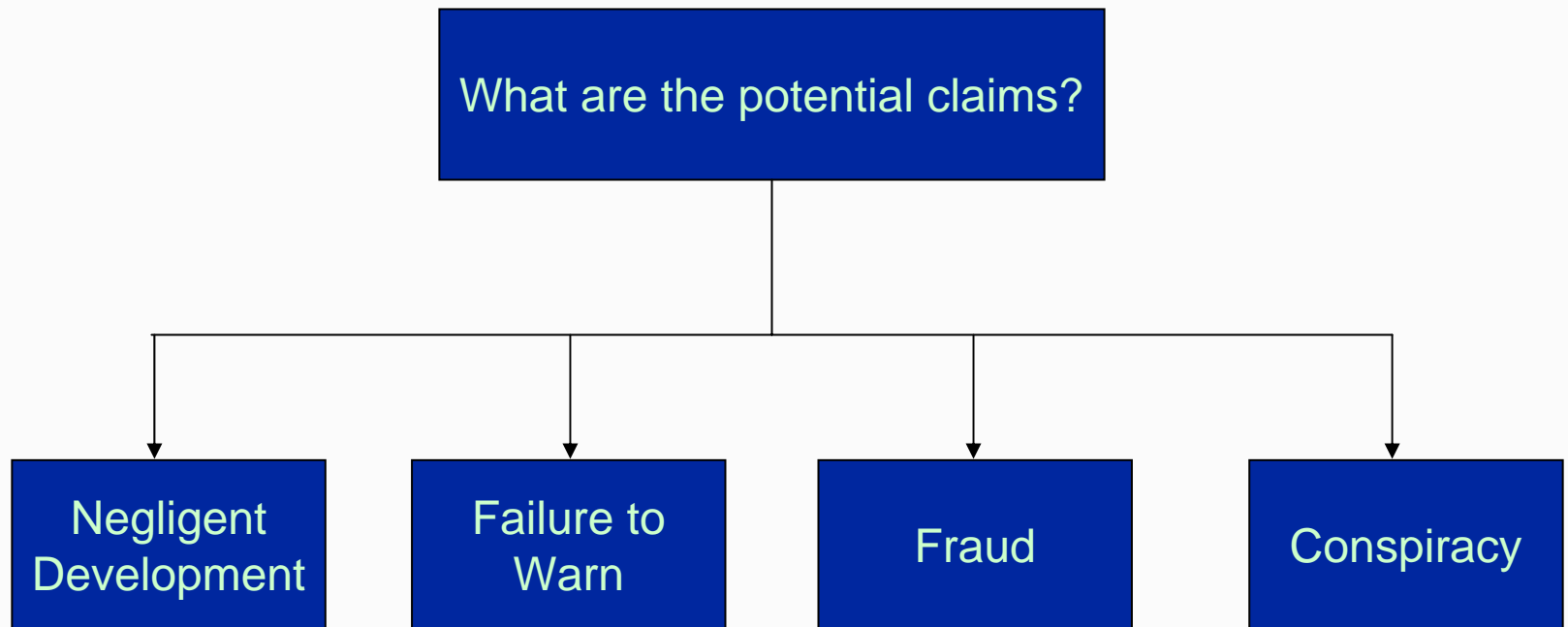
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# **Voluntary Standards: A Defense Lawyer's Perspective**

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# Defending Voluntary Standards



# Defending Voluntary Standards

- Defend the organization before the standard
- Themes
  - Value to society
  - Value to industry
  - Not your normal defendant ... legally
  - Not your normal defendant ... economically



# Defending Against Negligent Development Allegations

- One who undertakes ... gratuitously ... to render services ... necessary for the protection of a third person ... is subject to liability ... if
  - (a) ... failure to exercise reasonable care increases risk of such harm ...
  - (b) ... has undertaken a duty owed ... to third person ...
  - (c) ... harm is suffered because of reliance ...

Restatement (Second) Torts §324A



# Defending Against Failure to Warn Allegations

- Province of the jury ... ugh
- If SDO failed to warn, what effect?
- May have to defend language and design ... so look at it now.



# Defending Against Conspiracy/Fraud Claims

- Fact-intensive and hard to defeat early.
- Need good lawyers.
- Think now about industrial hygiene.
- Think now about document and electronic hygiene.



# Case Study: Murray v. ANSI

- 11/15/01 - filed in D.C. Superior Court; removed to U.S.D.C.
- 10/11/02 - Parties agree on stay
- 7/19/04 - remanded to D.C. Superior Court
- 11/30/04 - Motion to Dismiss filed
- 10/24/05 - Oral argument on motion
- 8/24/07 - Order of Dismissal with Prejudice
- 9/20/07 - Notice of appeal filed
  
- Conspiracy and Fraud claims still not reached.



# Case Study: Window Blinds Personal Injury Cases

- Garcia - filed 11/5/03; dismissed 5/6/05
- McGee - filed 2/13/04; dismissed 4/28/06
- Olen - filed 2/16/05; dismissed 5/31/06
- Danks - filed 1/12/04; dismissed 12/8/04
- Graham - filed 2/27/04; dismissed 12/1/06

