



Product Liability & Complex Torts Webinar

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Don't Send That Email!

*And Other Training Tips for Non-Legal Employees
to Effectively Manage Product Liability Risk*

FACT PATTERN FOR WEBINAR

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A. Charlie's Dream Car

After months of researching, watching YouTube video reviews, and communicating with multiple dealerships, Charlie was prepared to buy the convertible of his dreams. His research led him to STELLAR, a startup automobile manufacturer that specializes in battery-powered convertibles. The STELLAR website directed Charlie to Dazzling Downtown Autos ("DDA"), the exclusive dealer of STELLAR convertibles in Charlie's state.

Charlie walked into DDA's showroom and met Brian, a young and eager junior salesperson with DDA. Brian impressed Charlie with his recitation of all the incredible features on the new convertible. One feature in particular, the solar-powered sunroof panel that partially charges the car's reserve battery, impressed Charlie the most. During the test drive, Charlie generally liked the fancy electrochromic glass on the STELLAR's sunroof and thought it looked very sleek, but the visible light transmittance made an awkward glare for the driver. Charlie voiced this concern to Brian.

Brian, worried about losing a big sale, asked Charlie whether he would still be interested in the car if the sunroof glass could be tinted. "Absolutely," said Charlie. "If the sunroof glass can be tinted, then I would absolutely buy the car." Brian said that he would "make it happen because customer satisfaction is our guarantee here at DDA." Brian asked Charlie to keep an eye on his email while Brian made a few calls, and Brian would send Charlie an email to report on tinting options.

B. DDA's Communications with STELLAR Dealer Support

After Charlie left DDA, Brian emailed STELLAR dealer support to inquire whether darker tint options were available on the 2023 convertibles. A dealer support representative from STELLAR responded by email, informing Brian that the company had no plans to introduce darker tinting options. The dealer support representative did not recommend any third-party companies to perform the tinting work, and further informed Brian that any aftermarket alterations to the vehicle's electrochromic glass panel would void the vehicle's warranty.¹

Undeterred, Brian sent a text message to his friend, Jessy, who worked at STELLAR in their social media department. Brian told Jessy that STELLAR dealer support was not helpful, and asked Jessy if she could recommend a tint shop to do the work. Jessy first mentioned to Brian that she did not think STELLAR could do the work due to the electrochromic glass. She then told Brian that she had recently had her non-STELLAR SUV tinted at a shop called Tint Town. Jessy gave Brian the contact information of Shannon, the owner of Tint Town.

C. DDA's Communications with Tint Town and Email to the Customer

At his friend Jessy's suggestion, Brian reached out to Shannon at Tint Town. Via text message, Brian disclosed to Shannon that the requested work was for a 2023 STELLAR convertible. In response, Shannon informed Brian that she thought Tint Town would not be able to do the work. Just like Jessy, Shannon thought there would be an issue with tinting the electrochromic glass; Tint Town just did not have the materials to do this type of work, nor the experience working with STELLARs.

¹ STELLAR engineers were aware that any modifications or alterations to the electrochromic glass could affect the roof's solar panels and ultimately could render the battery charging panels useless.

As a last-ditch effort, Brian asked Shannon if she would at least be willing to meet with customer Charlie to see whether the work was possible. As an incentive, Brian told Shannon that if Tint Town would do the work then DDA would send all customers needing a tint job to Tint Town. Shannon reluctantly agreed, but told Brian that if Tint Town could do the work then they would not be able to start until Shannon returned from vacation next week. Brian sent an email to Charlie with the good news, exclaiming that Tint Town came recommended by STELLAR and was the most experienced tint shop in town. Charlie was thrilled. He went to DDA that evening to buy his new convertible.

D. Tint Town's Representations to the Customer and Internal Communications

Shannon sent a text to her technician, Terry, to let him know that Charlie would be coming into the shop for tint work. Shannon asked Terry to call Shannon when the customer arrived, as the work was to be performed on a STELLAR; Shannon wanted to speak with Charlie before Tint Town committed to the work. Terry confirmed that he would call Shannon when Charlie arrived.

The next day, Charlie drove to Tint Town in his new STELLAR to get the tinting work done. Tint Town technician Terry was at the shop. Terry tried to call Shannon, as she requested, but could not reach her. Terry, not knowing that the sunroof was electrochromic glass or of the solar-charging properties, told Charlie that the work seemed straight forward. Terry then told Charlie that Tint Town performs hundreds of tint jobs a month, and that they've never had an unsatisfied customer.

Charlie asked whether the work could be completed by the end of the week, as Charlie could not wait to cruise in his new ride. Terry told Charlie that supervisor Shannon, who was supposed to be overseeing this work, was not due back from vacation for a few more days. Charlie implored Terry to do the work that week, telling him that he would be willing to pay an extra \$500 for expedited work. The holidays were approaching, and some extra money would be good for Terry, so Terry agreed to take the expedited job. Terry told Charlie that the work would be done "in no time." Tint Town completed the job in a few days, and Charlie picked up his newly-tinted convertible before Shannon returned from vacation.

E. The Accident

Charlie was driving in his newly-tinted convertible a few days after Tint Town completed the work when the "recharge battery" warning-light came on. Charlie did not think much of it, and was confident that the previous day's cloudless sunny sky would give the STELLAR's solar panels all the juice needed to make it to the STELLAR charge station. Charlie started to make his way to the closest STELLAR charging station, about 30 miles away.

Charlie approached the traffic light next to the charging station to make a left turn. After yielding to a few oncoming cars, Charlie began to make his left turn into the station when the STELLAR shut down completely in the middle of the turn lane and was t-boned by an oncoming car. Charlie was transported by ambulance to a local hospital and treated for serious injuries. After a long and arduous recovery, Charlie called a lawyer and told him the whole story of the defective solar charger on his brand-new STELLAR.