

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ARIZONA

Steven Updike v. American Honda Motor Company Incorporated, et al.

Updike · No. CV-21-01379-PHX-ROS · Decided February 4, 2026

SUMMARY

The court addresses three pretrial issues in a products-liability action involving an alleged defect in a Honda Talon: the consumer expectations test, the admissibility of marketing videos, and the state-of-the-art affirmative defense. The court explains that the consumer expectations test requires a connection between the alleged defect and consumer expectations, declines to admit the proffered videos absent sufficient foundational relevance, and permits the defendant to pursue the state-of-the-art defense subject to establishing its requirements before jury instructions are given.

CASE DETAILS

COURT	United States District Court for the District of Arizona
WRITING FOR THE COURT	Roslyn O. Silver
JURISDICTION	United States District Court for the District of Arizona
DECIDED	February 4, 2026
DOCKET	CV-21-01379-PHX-ROS
DISPOSITION	other
PROCEDURAL POSTURE	Pretrial order addressing three issues for trial in a products-liability action: the elements of the consumer-expectations test, the admissibility and foundation of defendant's marketing videos, and the availability of the state-of-the-art affirmative defense.
STANDARD OF REVIEW	The order applies the governing legal standards for strict products liability, relevance and evidentiary foundation, and the state-of-the-art affirmative defense; no appellate standard of review is stated.
PRECEDENTIAL VALUE	Unknown; interlocutory district-court order

TOPICS

products liability

strict liability

relevance

authentication

affirmative defenses

PRACTICE AREAS

QUESTIONS PRESENTED

1. What must a plaintiff establish under the consumer-expectations test for a design-defect claim?
2. Did an earlier order concerning the relevance of some Honda photographs and advertisements require admission of all authenticated marketing videos proffered by plaintiff?
3. Should the defendant's state-of-the-art affirmative defense be precluded before trial because of the asserted lack of sufficient expert testimony?

HOLDINGS

1. The consumer-expectations test is a strict-liability standard focused on the condition of the product, not the defendant's conduct. Plaintiff need not prove negligent conduct but must show that something was wrong with the product and that the condition caused it to be unreasonably dangerous when used in a reasonably foreseeable manner.
2. An earlier order finding that some photographs and advertisements were probative and relevant did not rule that every authenticated advertisement or marketing video would be admitted. Plaintiff had not yet established sufficient foundation for relevance because the proffered videos were not adequately connected to the individual facts of the case, particularly the alleged defect.
3. The state-of-the-art affirmative defense would not be precluded in advance. Defendant would be required to satisfy all requirements for the defense before the court would instruct the jury on it.

KEY QUOTATIONS

“Negligence standard focuses on the defendant’s conduct, whereas strict liability focuses on the condition of the product.” (at 1)

“Judge Humetewa did not rule that any and all authenticated advertisements Plaintiff proffered would be admitted.” (at 2)

“As articulated in Gomulka, the consumer expectations test must still have some connection to the alleged defect.” (at 2)

“State of the art is not coextensive with industry custom: custom refers to what was being done in the industry; state of the art refers to what feasibly could have been done.” (at 3)

FACTUAL BACKGROUND

The action concerns alleged design defects in Honda's Talon product. Plaintiff sought to use Honda marketing videos to support consumer expectations but did not sufficiently connect the videos to the alleged defect and individual facts of the case. Defendant represented that its experts would testify about industry standards, safety regulations, and testing and experimentation relating to the Talon's development.

PROCEDURAL HISTORY

Plaintiff and defendant submitted briefing on three issues for trial. The court evaluated the governing consumer-expectations standard, clarified the effect of an earlier order concerning advertising, and considered whether defendant's state-of-the-art defense should be barred before trial. The court declined to preclude the defense in advance but found that plaintiff had not yet established sufficient relevance foundation for the proffered marketing videos.

DISPOSITION

other

CASES CITED

- Gomulka v. Yavapai Machine and Auto Parts, Inc., 745 P.2d 986
- Feuerstein v. Home Depot, U.S.A., Inc., 2014 WL 2557122

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