

Products Liability Series: Does Arkansas Law Recognize a Post-sale Duty to Warn?



Devin Bates

dbates@mwlaw.com
(501) 688.8864



Benjamin Jackson

bjackson@mwlaw.com
(501) 688.8887

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Does Arkansas law recognize a post-sale duty to warn? No. It has long been the conventional wisdom that Arkansas law does not recognize a post-sale duty to warn in the products liability context. However, this understanding of the law was largely based on federal court interpretation of Arkansas state law. *See e.g., Harris v. Great Dane Trailers, Inc.*, 234 F.3d 398, 400 (8th Cir. 2000) (“[u]nder Arkansas law, the liability of the manufacturer in a products liability action is determined by whether the product was defective at the time the product was placed on the market.”); *White v. Ford Motor Co.*, 312 F.3d 998, 1019 (9th Cir. 2002), *opinion amended on denial of reh’g*, 335 F.3d 833 (9th Cir. 2003) (summarizing that imposition of post-sale duty to warn is a matter for state law, and citing Arkansas as a state where such duty does not exist).

This past year, the Arkansas Court of Appeals had an opportunity to address the issue, and unequivocally affirmed that Arkansas law does not recognize a post-sale duty to warn. *Garner v. Goodyear Tire & Rubber Co.*, 2021 Ark. App. 332, 15 (2021), *reh’g denied* (Oct. 27, 2021). Whereas previously a dispositive motion on this point would have potentially been subject to attack that it was based on federal court precedent speaking on a not clearly settled issue of state law, this recent decision presents clear Arkansas precedent that directly answers this question.

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