Jim Dayton, Joe Dayton’s brother, was returning home after a night of bar hopping. Emboldened by a blood alcohol level that was twice the legal limit, he drove too fast on roads that were too wet. It was early morning when a commuter on her way to work noticed Jim’s car in a muddy ditch off Route 40. His body lay 20 feet from the auto, having been ejected through the front windshield as the car suddenly stopped after hitting a concrete embankment.

In his inebriated state, Jim most likely pulled his seat belt on as a result of habit and not rational thought. Crash reconstruction experts agree that Jim would probably have survived the accident had it not been for a defective seatbelt. Jim’s survivors have contacted an attorney who plans to file a product liability suit against the auto manufacturer that manufactured and installed the seat belts.

GN, the auto manufacturer, admits the seat belt was defective, but denies negligence. Given current technology, all defects cannot be eliminated. The auto industry does not presently have a non-destructive test that can determine which particular belt will fail. The belt is destroyed during the testing process. Accordingly, it can only determine the probability of failure for each batch of seat belts it produces; therefore, GN only rejects batches that are likely to contain defective seat belts. For each batch of seat belts that passes quality control, GN expects that 1 in 1,000 seat belts will fail an extreme stress test. This probably results in one additional death for every 100,000 cars sold.

All the auto manufacturers produce identical seat belts that meet minimum quality control standards set down by the Highway Safety Administration, a federal government agency. GN admits that it could produce a less defective product if it doubled the ply in the belts. This would increase the cost of a typical car by about $50. With double-ply seat belts, the auto manufacturer could reduce the failure rate to 1 in 2,000 seat belts and the resulting death rate to 1 in 200,000 cars sold. Consequently, one additional life would be saved for an additional $10 million in manufacturing cost ($50 x 200,000 cars) and the probability of death for each car sold would be reduced by 1/200,000 or one additional life saved for every 200,000 cars sold. (For this analysis ignore any reduction in non-lethal injuries that might result from the construction of safer seat belts.)

Some plant managers have argued that GN is already spending too much on quality control for seat belt production and installation. GN probably could produce a safer car if it reduced some of the money spent on seat belt construction and used it to produce better airbags or bumpers.

Jim’s parents think that GN should be liable for their son’s death. If the seat belt were not defective, their son would be alive. Had he been sober and had a similar accident, the seat belt in his car would have failed. They want to penalize GN for all the
needless deaths it has caused and force the auto industry to produce a safer seatbelt. Death should not be the penalty for drinking. Moreover, almost all accidents involve driver error. To relieve GN of liability whenever driver error exists would relieve GN of the responsibility for producing crashworthy cars.

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Use the above case to illustrate how each of the following liability rules might affect incentives for precaution and activity. Would the rule provide an incentive for efficient precaution and activity by the plaintiff and the defendant? For each of the negligence rules you are going to have to define a due care standard. Obviously, we do not have enough information to determine the optimal due care standard. Try to come up with one that you think might be optimal and use it in your analysis. Which standard do you think would be most efficient? Explain why. Do not ignore the fact that the injurer and the victim have a buyer-seller relationship. This might cause you to modify the discussion in the text.

1. No liability
2. Strict liability
3. Simple negligence
4. Negligence with contributory negligence
5. Strict liability with defense of contributory negligence

Should Dayton’s family be precluded from suing because of public policy issues (see Alami vs. VW)?