Product Line Liability Just Doesn't Fly

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A recent series of cases in the aerospace product liability space attempted to breathe new life into the product line exception to the general rule that a successor corporation is not liable for the wrongdoing of the predecessor. While all four of the most recent cases rejected the product line theory on summary judgment, the renewed invocation of the product line doctrine warrants a revisiting of it to understand why this once bourgeoning, economically-based exception to successor nonliability no longer flies in the vast majority of states.

This article will discuss the rule of successor nonliability generally, and the commonly known exceptions to that rule. Then, the two "modern" exceptions – continuity of enterprise and product line – will be reviewed, with an in-depth analysis of the product line theory and its origins. Finally, this article will address the most recent rejection of this doctrine by the Seventh Circuit and Illinois state courts in the four recent cases involving alleged product defects in airplanes.

I. Successor Liability and Its Traditional Exceptions

As a general rule of successor liability, when a manufacturing

business acquires the assets of a predecessor manufacturer, the successor is not liable for the unassumed liabilities of the predecessor whose assets it purchased.[1] As with every rule, there are exceptions. For example, the successor may be liable for the predecessor's liabilities when, in the words of the Restatement Third of Torts, "the acquisition [of the business]: (a) is accompanied by an agreement for the successor to assume such liability; or (b) results from a fraudulent conveyance to escape liability for the debts or liabilities of the predecessor; or (c) constitutes a consolidation or merger with the predecessor; or (d) results in the successor becoming a continuation of the predecessor."[2] The majority of courts impose strict liability on successor corporations only if one of the four above-listed exceptions apply.[3]

II. The Modern Exceptions of Continuity of Enterprise and Product Line

Over time, a small number of states have recognized two additional exceptions to the general rule of no successor liability for an asset-purchaser. Those exceptions are referred to as the continuity of enterprise, and the product line exception.

Continuity of enterprise is considered an expansion of the traditional, "mere continuation" exception to the general rule of successor non-liability as it has less rigid requirements.[4] This exception is still a minority rule, followed by only a few jurisdictions in certain limited circumstances.[5] Under the mere continuation exception, "a successor may be subject to liability for the debts of its predecessor where it is found that the successor is essentially a reincarnation that is merely a 'new hat' for the predecessor entity."[6] For the mere continuation exception to apply, there must be "a continuity of ownership and control" between the successor and predecessor businesses.[7]

Under the continuity of enterprise theory, however, "liability may also be imposed on a successor that has continued the business operations of the predecessor."[8] This "represents a shift of focus from the mere

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[1] David J. Marchitelli, Annotation, *Liability of Successor Corporation for Injury or Damage Caused by Product Issued by Predecessor, Based on Mere Continuation or Continuity of Enterprise Exceptions to Nonliability*, 13 A.L.R. 6th 355 (2006).

[2] RESTATEMENT (THIRD) OF TORTS: PROD. LIAB. § 12 (AM. LAW. INST. 2016).

[3] Marchitelli, *supra*, n. 1.

[4] *Id*.

[5] *Id.* (listing Alabama, Michigan, Mississippi, New Hampshire and New York as states that adopt some version of the continuity of enterprise exception).

[6] *Id.*

[7] *Id.*

[8] *Id.*

continuation exception, which looks to continuation of the business entity of the predecessor."[9] The continuity of enterprise approach focuses less on whether the legal owners of the predecessor continue to influence control over the successor company and instead "is focused on whether the successor has continued the same general business operations of the predecessor entity."[10] Accordingly, the continuity of enterprise exception "applies without regard to whether there has been a continuity of ownership by the shareholders of the predecessor."[11]

The product line exception was first recognized by the California Supreme Court in *Ray v. Alad Corporation*.[12] The court in *Ray* held that "a party which acquires a manufacturing business and continues the output of its line of products . . . assumes strict tort liability for defects in units of the same product line previously manufactured and distributed by the entity from which the business was acquired."[13] The idea behind the product line exception is that a manufacturing business that buys the manufacturing assets from another business that then dissolves may assume strict liability for defective products produced by the predecessor company.

An example of the exception in action might be helpful. Imagine a business that manufactures a line of aircraft of a specific model. Within that product line, *i.e.*, all airplanes that are this model/type, there are hundreds of individual aircraft with different characteristics and serial numbers. This manufacturer produces a defective unit (a defective airplane). Another manufacturer then purchases substantially all of the assets necessary to continue manufacturing the product line (the assets necessary to produce these aircraft). The product line theory says that the successor company acquires liability for injuries caused by any defective product (individual aircraft) produced by the predecessor manufacturer even though the successor company did not manufacture or sell the product or place it into the market. Like the continuity of enterprise exception, it is still a minority rule, followed by only a few jurisdictions.[14]

Despite the limited adoption, the product line exception has long been a "public policy" argument for plaintiffs in jurisdictions that reject the exception, and it recently

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[9] *Id.*
[10] *Id.*
[11] *Id.*
[12] Ray v. Alad Corp., 560 P.2d 3, 11 (Cal. 1977).
[13] *Id.*
[14] The following seven states represent the minority that has adopted the product line theory: California, Connecticut, New Jersey, New Mexico, Mississippi, Pennsylvania, and Washington.

appeared in four cases in Illinois, which will be examined later in this article. In order to understand the policy rationale of the product line exception, we will provide a close review of *Ray* to show the policies and particular circumstances that led to the minority rule.

III. The Extension of Liability Based on Public Policy Grounds

The plaintiff in *Ray* brought a strict liability suit against the defendant, Alad Corporation, for damages resulting from a defective ladder.[15] The defendant—referred to throughout the case as "Alad II"—neither manufactured nor sold the defective ladder, "but prior to plaintiff's injury succeeded to the business of the ladder's manufacturer, the now dissolved 'Alad Corporation' (Alad I)."[16] Alad II purchased Alad I's "plant, equipment, inventory, trade name, and goodwill" and "continued to manufacture the same line of ladders under the 'Alad' name, using the same equipment, designs, and personnel."[17] Further, "[a]s part of the sale transaction, Alad I agreed 'to dissolve its corporate existence as soon as practical.'"[18]

The California Supreme Court examined whether Alad II could be held strictly liable for the defective product in its role as successor to the manufacturer. The court began by considering "the rule ordinarily applied to the determination of whether a corporation purchasing the principal assets of another corporation assumes the other's liabilities."[19] Following the general rule set forth in the Restatement Third of Torts,[20] the California Supreme Court held that the rule allowed for liability only if:

> there is an express or implied agreement or assumption, (2) the transaction amounts to a consolidation or merger of the two corporations, (3) the purchasing corporation is a mere continuation of the seller, or (4) the transfer of assets to the purchaser is for the fraudulent purpose of escaping liability for the seller's debts.[21]

Despite recognizing that "[n]one of the rule's four stated grounds for imposing liability on the purchasing corporation is present," the court nonetheless considered "whether a special departure from that rule is called for by the policies underlying strict tort liability for defective products."[22]

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[15] *Ray*, 560 P.2d at 4.
[16] *Id.*
[17] *Id.*
[18] *Id.*
[19] *Id.* at 7.
[20] *See supra*, n. 2.
[21] *Ray*, 560 P.2d at 7.
[22] *Id.* at 7-8.

Ray explained that the purpose of strict tort liability for defective products "is to insure that the costs of injuries resulting from defective products are borne by the manufacturers that put such products on the market rather than by the injured persons who are powerless to protect themselves."[23] The court then held that "a party which acquires a manufacturing business and continues the output of its line of products under the circumstances [presented in this case] assumes strict liability for defects in units of the same product line previously manufactured and distributed by the entity from which the business was acquired."[24] The "product line exception" to successor liability was thus born.

The *Ray* court enumerated three justifications for the product line exception: (1) the virtual destruction of remedies against the original manufacturer because of the dissolution of the predecessor company following the purchase of the business by the successor; (2) the successor's ability to gauge the risks of injury from previously manufactured products and its ability to spread the cost of those risk among current purchasers of the product line; and (3) "the fact that the good will transferred to and enjoyed by [the successor] could not have been enjoyed by [the predecessor] without the burden of liability for defects in ladders sold under its aegis."[25] The justifications for such an exception, as telegraphed by *Ray*, are that successor corporations with the risk of liability when acquiring the product line would be incentivized to produce or maintain safer products and to provide a remedy to "otherwise defenseless victims" of defective products acquired by asset purchasers.

IV. The Rejection of the Extension of Liability Based on Public Policy Grounds

While *Ray* offered many justifications for the product line exception, a majority of courts have rejected the exception and have refused to rely on policy justifications championed by its proponents. Many of those courts that reject the product line exception hold that the proper venue to raise the policy arguments supportive of the product line is with the legislature, not with the courts.[26] In rejecting the product line exception, most courts are

[23] *Id.* at 8.
[24] *Id.* at 11.
[25] *Id.* at 5.
[26] *See, e.g.*, Semenetz v. Sherling & Walden, Inc., 851 N.E.2d 1170 (N.Y. 2006) ("In short, adoption of the 'product line' exception would mark 'a radical change from existing law implicating complex economic considerations better left to be addressed by

critical of *Ray*'s departure from the general rule of successor non-liability—as additional exceptions would only serve to chill the purchase of assets and business transfers or mergers.

The *Ray* court's first justification is that absent the product line theory, the plaintiff is without a remedy because the predecessor corporation has been dissolved. Courts have responded that "it is not the purchase by the successor corporation that deprived the plaintiff of a remedy, but rather the demise of the predecessor. Furthermore, the plaintiff's lack of a remedy against the original manufacturers is not a justification for imposing liability on another absent fault and causation."[27]

The second justification announced by the *Ray* court is that the successor has the ability to spread the risk through insurance by estimating risks in the previously manufactured product. This justification misstates the operation of insurance. Often times, an insurance policy will not cover prior sales by another company. Courts have also taken exception with the second consideration, explaining that it "overly simplifies the underlying principles of strict liability" which is "not a no-fault system of compensation."[28] Instead, the goal of strict liability is to "place responsibility for a defective product on the manufacturer who placed that product into commerce."[29] Courts conclude that imposing strict liability upon a corporation that had no role in manufacturing or selling a product "would be contrary to this principle."[30]

Other courts have criticized the *Ray* court's third and final justification, which is that it is fair to "require" the successor to assume the burdens as well as the benefits of the original manufacturer's good will."[31] Courts have noted that "[t]his argument fails to recognize that the successor paid for the predecessor's goodwill at the asset purchase."[32] Imposing strict liability on the corporation "forc[es] the successor to pay twice for . . .

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the Legislature.'"); Winsor v. Glasswerks PHX, LLC, 63 P.3d 1040, 1047 (Ariz. Ct. App. 2003) (quoting Polius v. Clark Equip. Co., 802 F.2d 75, 83 (3d Cir. 1986)).

[27] Guzman v. MRM/Elgin, 567 N.E.2d 929, 931–932 (Mass. 1991) (citing Downtowner, Inc. v. Acrometal Prods., Inc., 347 N.W.2d 118, 126 (N.D. 1984); Manh Hung Nguyen v. Johnson Mach. & Press Co., 433 N.E.2d 1104 (Ill. App. Ct. 1982); Fish v. Amsted Indus., Inc., 376 N.W.2d 820 (Wis. 1985).

[28] *Guzman*, 567 N.E.2d at 932.

[29] *Id.*

[30] *Id.* (citing Simoneau v. South Bend Lathe, Inc., 543 A.2d 407 (N.H. 1988)); *Downtowner,* 347 N.W.2d at 123; Hamaker v. Kenwel-Jackson Mach., Inc., 387 N.W.2d 515, 521 (S.D. 1986); Ostrowski v. Hydra Tool Corp., 479 A.2d 126 (Vt. 1984); Domine v. Fulton Iron Works, 395 N.E.2d 19 (Ill. App. Ct. 1979).

[31] Bernard v. Kee Mfg. Co., 409 So. 2d 1047, 1049 (Fla. 1982).

[32] *Guzman*, 567 N.E.2d at 932.

goodwill."[33] The justification is further flawed because it assumes that a purchaser will assume a predecessor's business, and it fails to discount that the purchase of assets that may be defective is, or can be, damaging to goodwill. Finally, assuming beneficial goodwill does not mean that a good faith purchaser should acquire the unknown and unexpected burdens of the predecessor or its products.

In addition to criticizing the *Ray* court's specific justifications for the product line theory, courts have rejected the theory as "inconsistent with elementary products liability principles, and strict liability principles in particular, in that it results in an imposition of liability without a corresponding duty."[34] As one court explained, "[t]he purpose of strict liability in tort is to place the loss caused by defective products on those who create the risk and reap the profit by placing such products in the stream of commerce."[35] The product line theory, however, imposes liability on the successor corporation despite the fact that the successor "did not create the risk nor did it directly profit from the predecessor's sale of the defective product; it did not solicit the use of the defective product nor make any representations as to its safety."[36]

Courts rejecting this theory also frequently cite the negative policy consequences that would befall small businesses were it to be adopted. The *Ray* court states that its holding is in line with the "paramount policy to be promoted by [strict product liability]" which is "the protection of otherwise defenseless victims of manufacturing defects and the *spreading throughout society* of the cost of compensating them."[37] This theory does not apply to small businesses. "[S]mall manufacturers have a difficult problem obtaining products liability insurance and find it impossible to cover the risks by raising prices because they have to compete with larger manufacturers who can keep the price down."[38] Additionally, "it is one thing to assume that a manufacturer can acquire insurance against potential liability for its own products and another to assume it can acquire such insurance for the products made by a different manufacturer."[39] One court went so far as to say, "[w]e choose not to join this vanguard of courts [adopting the product line theory], due in part

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[33] *Semenetz*, 851 N.E.2d 1170 (alteration in original).
[34] DeLapp v. Xtraman, Inc., 417 N.W.2d 219, 221 (Iowa 1987).
[35] Kaleta v. Whittaker Corp., 583 N.E.2d 567, 573 (Ill. App. Ct. 1991).
[36] *Fish*, 376 N.W.2d at 827 (citing *Bernard*, 409 So.2d at 1050); *Domine*, 395 N.E.2d at 23; Jones v. Johnson Mach. & Press Co., Etc., 320 N.W.2d 481, 484 (Neb. 1982); *Ostrowski*, 479 A.2d at 127.
[37] *Ray*, 560 P.2d at 8.
[38] *Fish*, 376 N.W.2d at 827.
[39] *Id.*

to the threat of economic annihilation that small businesses would face under such a rule of expanded liability."[40]

V. Recent Rulings Demonstrate the Correctness in Rejecting Product Line Liability

A series of recent product liability cases involving airplane accidents that were filed and litigated in Illinois federal and state courts offers the most recent rejection of the product line exception in successor liability cases.

The four cases involved aircraft accidents in Australia, Ireland and Bolivia, and in each crash, most of the passengers and crew were killed.[41] In each instance, the aircraft involved in the crash was designed, manufactured, and sold by Fairchild Aircraft Inc. ("Fairchild"). Prior to the accidents, a company named M7 Aerospace LLC ("M7") purchased certain Fairchild assets out of a bankruptcy "free and clear of any liens, claims and encumbrances."[42] The plaintiffs in each of the cases sought the adoption of the product line theory in order to hold M7 liable.

While Illinois had specifically rejected product line liability on numerous occasions, taking the mantle of *Ray*'s public policy arguments, plaintiffs argued that M7's relationship to all Fairchild aircraft in the product line was the relevant inquiry to determine successor liability, rather than looking specifically at M7's relationship with the accident aircraft in question. Specifically, plaintiffs argued that M7 had liability as Fairchild's successor and that it had a duty to warn of certain alleged defects in the aircraft because of this relationship with the Fairchild product line.[43] The plaintiffs' arguments were related to the analysis in *Ray* in that certain victims of aircraft would be without a remedy after Fairchild's bankruptcy unless the court held M7 liable for any defects with the product line, regardless of M7's relationship with the specific product – in this case, the accident aircraft.

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[40] *Bernard*, 409 So. 2d at 1049.

[41] Thornton v. M7 Aerospace, LP, 796 F.3d 757, 761(7th Cir. 2015); Cruz. v. Honeywell Int'l, Inc.., No. 14 L 011437(Cir. Ct. Cook Cty); Dickens v. M7 Aerospace LLC., No. 13 L 1361(Cir. Ct. Cook Cty); Torrez. v. M7 Aerospace LLC., No. 13 L 41(Cir. Ct. Cook Cty).

[42] *See, e.g., Thornton*, 796 F.3d at 761.

[43] *Id.* at 761-762.

In each of the four cases, the court granted summary judgment because there was an insufficient relationship or nexus between M7 and the accident aircraft operator to impose liability. The Circuit Court of Cook County declined to adopt plaintiff's public policy arguments holding in part that Illinois courts have rejected the product line theory because the courts are in a very poor position to seek correction to social problems attendant to the sale of goods over a long period of time. While the courts recognized the potential public policy justifications for the product line theory, the courts ultimately deferred to the legislature to adopt the product line theory. The courts declined the invitation to alter judicial rejection of the doctrine in Illinois and granted summary judgment on the successor counts.

In affirming the U.S. District Court for the Northern District of Illinois' grant of summary judgment, the Seventh Circuit affirmed the rejection of the product line exception (and *Ray's* three justifications) by reaffirming that the imposition of liability is improper "where there is not a continuing relationship between the successor and owner with respect to the specific machine involved in the accident."[44]

VI. Conclusion

These cases illustrate, even in light of the public policy considerations set forth in *Ray*, and the increased focus on consumer protection since *Ray* was decided, that the product line exception created impermissible liability to successor manufacturers.

Today, the general rule of nonliability for a successor prevails as the majority and default rule. Below, we provide a fifty-state survey that sets forth the reported caselaw on the product line exception. Even through repeated efforts and arguments in the courts, the product line theory still has not taken flight in the vast majority of jurisdictions.

[44] *Id.* at 767.

Product Line Exception to Rule of Successor Nonliability: 50-State Review

State	Acceptance of Doctrine	Supporting Authority
Alabama	Adopted "continuity of enterprise exception"	The purchasing corporation held itself out to the world as the effective continuation of the seller corporation. Brown v. Economy Baler Co., 599 So.2d 1 (Ala. 1992).
Alaska	Refused to Address "product line" theory; adopted "continuity of enterprise" exception	Savage Arms, Inc. v. W. Auto Supply Co., 18 P.3d 49, 55 n.25 (Alaska 2001) ("Because the facts in this case seem ill-suited to this exception, we decline to evaluate the wisdom of adopting the "product line" theory at this time. Our decision today does not preclude further consideration of this exception in an appropriate case.").
Arizona	No	Winsor v. Glasswerks PHX, L.L.C., 63 P.3d 1040, 1047 (Ariz. Ct. App. 2003) ("[I]n considering the [continuity of enterprise and product line] exceptions '[s]uch a profound change in tort law is appropriately the subject of legislation, not judicial fiat.'" (quoting Polius v. Clark Equip. Co., 802 F.2d 75, 83 (3d Cir. 1986)).
Arkansas	No	Swayze v. A.O. Smith Corp., 694 F. Supp. 619, 624 (E.D. Ark. 1988) ("this Court has already determined that Arkansas would not adopt the 'product line' exception." (citing Reed v. Armstrong Cork Co., 577 F. Supp. 246, 247–248 (E.D.Ark.1983)).
California	Yes	Ray v. Alad Corp., 560 P.2d 3, 11 (Cal. 1977) ("We therefore conclude that a party which acquires a manufacturing business and continues the output of its line of products under the circumstances here presented assumes strict tort liability for defects in units of the same product line previously manufactured and distributed by the entity from which the business was acquired.").
Colorado	No	Florom v. Elliott Mfg., 867 F.2d 570, 580 (10th Cir. 1989) ("[W]e agree with the conclusion of Chief Judge Finesilver

State	Acceptance of Doctrine	Supporting Authority
		in the instant case declining to adopt the product line theory and the expanded continuity of enterprise theory.").
Connecticut	Yes	Pastorick v. Lyn-Lad Truck Racks, Inc., No. CV 960562426S, 1999 WL 608674, at *2 (Conn. Super. Ct. Aug. 3, 1999) ("[T]his court is of the opinion that there is a sound legal basis for the application of the product line continuation theory of liability in this State.").
Delaware	N/A	
D.C.	No	Brown v. Brown & Williamson Tobacco Corp., 26 F. Supp.2d 74, 78 (D. D.C. 1998) ("To date, the courts of the District of Columbia have neither formally adopted nor rejected the product line exception.").
Florida	No	Bernard v. Kee Mfg. Co., 409 So. 2d 1047, 1049 (Fla. 1982) (noting that the justifications for the theory "have undeniable appeal" but refusing to "join the vanguard of courts" adopting the theory because the court "find[s] countervailing considerations more convincing.")
Georgia	No	Cilurso v. Premier Crown Corp., 769 F. Supp. 372, 374 (M.D. Ga. 1991) ("In *Bullington*, the Supreme Court of Georgia expressly declined an invitation to expand Georgia's successor liability law to include . . . the . . . product line" exception) (citing Bullington v. Union Tool Corp., 254 Ga. 283 (Ga. 1985)); Farmex Inc. v. Wainwright, 501 S.E.2d 802, 804 (Ga. 1998) (rejecting product line liability arguments).
Hawaii	N/A	
Idaho	N/A	
Illinois	No	Gonzalez v. Rock Wool Eng'g & Equip. Co., 453 N.E.2d 792 (Ill. App. Ct. 1983) ("[W]e have specifically refused to adopt the "product line" approach to successor liability as set

State	Acceptance of Doctrine	Supporting Authority
		forth in *Ray* in several recent decisions, . . . and we refuse to do so here.").
Indiana	Yes	P.R. Mallory & Co. v. Am. States Ins. Co., No. 54C01-0005-CP-00156, 2004 WL 1737489, at *6 (Ind. Cir. July 29, 2004) ("Indiana law has adopted and recognized the product-line successor rule in . . . in products liabilities cases. . . . when the predecessor corporation is no longer in existence and the plaintiff can prove one of four enumerated conditions.").
Iowa	No	DeLapp v. Xtraman, Inc., 417 N.W.2d 219, 222–223 (Iowa 1987) ("[T]he product-line theory is inconsistent and, as the law currently stands, theoretically irreconcilable with our law of strict liability in tort as well as with our law of corporate liability. We find the logic of those courts which have rejected the doctrine more persuasive than the logic of those courts which have adopted it.").
Kansas	No	Brown v. Kleen Kut Mfg. Co., 714 P.2d 942, 948 (Kan. 1986); Cowan v. Harris Corp., No. 80-4134, 1982 WL 602774, at *7 (D. Kan. Dec. 6, 1982) ("We reiterate our rejection in *Akin* of the so-called product line theory. Such a drastic expansion of tort liability with such far reaching consequences for businesses in this state is a matter for the Kansas legislature where all parties involved, including the people of this state who might later become plaintiffs, can have input through their elected representatives.").
Kentucky	No	Pearson ex rel. Trent v. Nat'l Feeding Sys., Inc., 90 S.W.3d 46, 52 (Ky. 2002) ("We decline to adopt the product-line exception for the sound reasons stated by the Nebraska Supreme Court in [Jones v. Johnson Machine & Press Co., 211 Neb. 724, 320 N.W.2d 481 (1982)].").

State	Acceptance of Doctrine	Supporting Authority
Louisiana	No	Pichon v. Asbestos Defendants, 2010-0570 (La. App. 4 Cir. November 17, 2010), 52 So. 3d 240, 245, *writ denied*, 2010-2771, 57 So.3d 317 ("Louisiana has not adopted the more liberal 'continued product line' theory of successor liability that has been used in products liability cases in California."); Murray v. B&R Mach.95073937, No. CIV. A. 92-4030, 1995 WL 133346, at *5 (E.D. La. Mar. 24, 1995) (Louisiana courts "appear to be hostile to its adoption"); Murray v. B&R Mach. Inc., No. CIV. A. 92-4030, 1993 WL 114532, at *3 (E.D. La. Apr. 8, 1993) ("Louisiana appellate courts have not adopted the product line theory of successor liability) (citing Page v. Gulf Oil Co., 812 F.2d 249, 250 (5th Cir. 1987) (per curiam)).
Maine	No	Jordan v. Hawker Dayton Corp., 62 F.3d 29, 33 (1st Cir. 1995) ("[The product line] doctrine is at most a minority rule which has plainly not been adopted by Maine.").
Maryland	No	Giraldi v. Sears, Roebuck & Co., 687 F. Supp. 987, 992 (D. Md. 1988) ("[T]his Court will proceed on the assumption that the Maryland courts would accept the un-embellished traditional rule with respect to continuing liability.").
Massachusetts	No	Guzman v. MRM/Elgin, 409 Mass. 563, 567 N.E.2d 929 (Mass. 1991) ("We also decline to adopt the product line theory of recovery, for the reasons discussed below.").
Michigan	No	Neagos v. Valmet-Appleton, Inc., 791 F. Supp. 682, 689 (E.D. Mich. 1992) ("[S]uccessor liability requires continuity of an enterprise, not a product line") (citing Pelc v. Bendix Mach. Tool Corp., 111 Mich.App. 343, 352, 314 N.W.2d 614 (Mich. Ct. App. 1981)).
Minnesota	No	Niccum v. Hydra Tool Corp., 438 N.W.2d 96, 100 (Minn. 1989) ("We . . . decline to adopt the product line exception.").

State	Acceptance of Doctrine	Supporting Authority
Mississippi	Yes	Huff v. Shopsmith, Inc., 786 So.2d 383, 388 (Miss. 2001) ("[E]ven though we view the product line theory as a viable basis for recovery, the present situation does not meet the standards utilized by other courts that have adopted the theory.").
Missouri	No	Young v. Fulton Iron Works Co., 709 S.W.2d 927, 940 (Mo. Ct. App. 1986) ("[W]e decline plaintiffs' invitation to apply the product line rule in determining whether [the defendant] can be held liable to plaintiffs in the instant case."); Chem. Design, Inc. v. Am. Standard, Inc., 847 S.W.2d 488, 493 (Mo. Ct. App. 1993) ("Accordingly, the court in *Young* rejected the 'product line' theory of successor liability").
Montana	N/A	
Nebraska	No	Jones v. Johnson Mach. & Press Co., 320 N.W.2d 481, 484 (Neb. 1982) ("The public policy considerations which motivate imposition of strict liability on those who create risk and obtain profit by placing defective products in the stream of commerce do not necessarily apply equally to successor corporations.").
Nevada	Likely Yes	Roll v. Tracor, Inc., 140 F. Supp.2d 1073, 1076 (D. Nev. 2001) (citing *Ray* approvingly and recognizing product line exception as viable in Ninth Circuit, but not specifically addressing/adopting in Nevada).
New Hampshire	No	Simoneau v. S. Bend Lathe, Inc., 543 A.2d 407, 409 (N.H. 1988) ("[W]e join a majority of jurisdictions in holding that the product line theory of recovery, as propounded in *Ray v. Alad* and its progeny, is incompatible with this State's approach to the doctrine of strict liability in tort, and we decline to adopt it.").
New Jersey	Yes	Ramirez v. Amsted Indus., Inc., 86 N.J. 332, 358, 431 A.2d 811, 825 (1981) ("[W]e hold that where one corporation acquires all or substantially all the manufacturing assets of

State	Acceptance of Doctrine	Supporting Authority
		another corporation, even if exclusively for cash, and undertakes essentially the same manufacturing operation as the selling corporation, the purchasing corporation is strictly liable for injuries caused by defects in units of the same product line, even if previously manufactured and distributed by the selling corporation or its predecessor.").
New Mexico	Yes	Garcia v. Coe Mfg. Co., 933 P.2d 243, 248 (N.M 1997) ("Balancing the competing interests of the predecessor, successor, and injured person results in the adoption of the product-line exception.") (citing Brooks v. Beech Aircraft Corp., 902 P.2d 54, 59 (N.M 1995)).
New York	No	Semenetz v. Sherling & Walden, Inc., 851 N.E.2d 1170 (N.Y. Ct. App. 2006) ("In short, adoption of the 'product line' exception would mark 'a radical change from existing law implicating complex economic considerations better left to be addressed by the Legislature.'").
North Carolina	No	Atwell v. DJO, Inc., 803 F. Supp.2d 369, 372 (E.D.N.C. 2011) (rejecting arguments for product line exception).
North Dakota	No	Downtowner, Inc. v. Acrometal Products, Inc., 347 N.W.2d 118, 124–125 (N.D. 1984) ("We recognize that there are some good social arguments for a rule imposing strict liability upon any successor corporation which has maintained the product line of its predecessor. We nevertheless agree with the courts cited above that the legislature and not the courts should be responsible for the adoption of such a rule.").
Ohio	No	Pilkington N. Am., Inc. v. Travelers Cas. & Sur. Co., 861 N.E.2d 121, 130 (Ohio 2006) ("Ohio does not follow the California product-line successor liability theory. Ohio has adopted the general rule of successor liability, which provides that the purchaser of a corporation's assets is not

State	Acceptance of Doctrine	Supporting Authority
		liable for the debts and obligations, including liability for tortious conduct, of the seller corporation.").
Oklahoma	No	Goucher v. Parmac, Inc., 694 P.2d 953, 954 (Ok Civ. App. 1984) ("The 'product line' exception is directly opposite to the test enunciated in *Pulis*" which controls whether strict liability applies.).
Oregon	No	Gonzalez v. Standard Tools & Equip. Co., 270 Or. App. 394, 398, 348 P.3d 293, 295, *review denied*, 357 Or. 640, 360 P.3d 523 (2015) ("Here, we adhere to the reasoning set forth in the *Dahlke* dictum and, accordingly, reject plaintiff's contention that we should adopt the "product line" exception to the traditional rules of successor liability."); Cox v. DJO, LLC, No. CIV. 07-1310-AA, 2009 WL 3855084, at *3 (D. Or. Nov. 16, 2009) ("Oregon has explicitly rejected a 'product line' exception to the *Erickson* rules governing successor liability.").
Pennsylvania	Yes	Dawejko v. Jorgensen Steel Co., 434 A.2d 106, 110 (Pa. 1981) ("Where one corporation acquires all or substantially all the manufacturing assets of another corporation, even if exclusively for cash, and undertakes essentially the same manufacturing operation as the selling corporation, the purchasing corporation is strictly liable for injuries caused by defects in units of the same product line, even if previously manufactured and distributed by the selling corporation or its predecessor.").
Rhode Island	N/A	
South Carolina	Likely Yes	Simmons v. Mark Lift Indus., Inc., 366 S.C. 308, 325, 622 S.E.2d 213, 222 (S.C. 2005) (citing with approval product line adoption, but not expressly adopting the product line exception).
South Dakota	No	Hamaker v. Kenwel-Jackson Mach., Inc., 387 N.W.2d 515, 521 (S.D. 1986) ("[W]e agree with the analysis set forth in *Downtowner, Inc.*, and similarly find that were we to impose

State	Acceptance of Doctrine	Supporting Authority
		liability upon [the successor corporation] under the present facts, it would be liability without duty which cannot be reconciled with our adoption of the rule of strict liability in tort.").
Tennessee	Likely No	Woody v. Combustion Eng'g, Inc., 463 F. Supp. 817, 821 (E.D. Tenn. 1978) (rejecting *Ray* and product line rationale, but not expressly identifying rejection of product line doctrine).
Texas	No	Ford, Bacon & Davis, L.L.C. v. Travelers Ins. Co., 635 F.3d 734, 735 (5th Cir. 2011) ("Texas law explicitly rejects the product-line successor liability rule").
Utah	No	Tabor v. Metal Ware Corp., 168 P.3d 814, 818 (Ut. 2007) ("We decline to adopt either the product line or the continuity of enterprise exceptions at this time.").
Vermont	No	Ostrowski v. Hydra-Tool Corp., 479 A.2d 126, 127 (Vt. 1984) (We agree with the position taken by the lower court that [the product line theory and the continuity of enterprise theory] do not speak the law of this state, and we decline to adopt them.").
Virginia	No	Harris v. T.I., Inc., 243 Va. 63, 71, 413 S.E.2d 605, 609–610 (Va. 1992) (We decline the invitation [to adopt the "product line exception" or the "expanded mere continuation" exception]. These exceptions are based upon the doctrine of strict liability—a doctrine that is not recognized in Virginia.").
Washington	Yes	Martin v. Abbott Labs., 689 P.2d 368, 388 (Wash. 1984) ("Imposition of liability [under the product line theory] is properly based on the successor's receipt of a benefit from the predecessor's product line. The benefit of being able to take over a going concern manufacturing a specific product line is necessarily burdened with potential products liability linked to the product line. This standard allows the parties to

State	Acceptance of Doctrine	Supporting Authority
		a transfer to consider potential products liability and in fairness to the competing considerations still leaves some claimants uncompensated and some forms of transfer immune.").
West Virginia	N/A	
Wisconsin	No	Fish v. Amsted Indus., Inc., 376 N.W.2d 820, 826 (Wis. 1985) ("After analyzing the pros and cons of the justifications for creating the product line exception, we decline to adopt it.").
Wyoming	N/A	