

Case Defines "Product"

August 16, 2011 by [Sean Wajert](#)

Ok, so it's not a major mass tort, but we couldn't resist mentioning this one. [McGregor v. Scotts Co.](#), No. 4:11-cv-00548 (E.D. Mo., 8/8/11). The case goes to a basic element of products liability law, the definition of the product.

Plaintiff's complaint alleged that he purchased a bag of potting soil sold by defendant, and upon opening the bag and putting his hand in to scoop out some soil, his hand was bitten by a [copperhead snake](#). In Count I, Plaintiff sought damages on a theory of strict liability. Defendant argued that Count I should be dismissed for failure to state a claim because plaintiff failed to state facts supporting an alleged design or manufacturing defect in the potting soil.

Defendant sought to define the product at issue here as just the soil itself, and argued that there was nothing wrong with the soil. But the Court agreed with plaintiff that the product was the bag of soil sold by defendant. See generally Cantu, *A Continuing Whimsical Search For The True Meaning Of The Term "Product" In Products Liability Litigation*, 35 St. Mary's L.J. 341 (2004).

If indeed, there was a copperhead snake in the bag at the time manufacturing was complete, said the Court, the "product" could have been unreasonably dangerous when used as reasonably anticipated.