

Verdicts & Settlements

Isuzu settles over child injured while wearing seat belt

Plaintiffs claimed improper seat and seat belt design

Confidential settlement

The family of a child wearing a seat belt yet severely injured in a head-on collision has reached a confidential settlement in their St. Louis City products liability suit against Isuzu Motors Ltd.

"Unfortunately, these types of injuries will continue to occur with child occupants," said plaintiff's attorney Bradley D. Kuhlman of Kansas City. "The evil lies in the fact that through conscientious and proper design and testing these injuries are preventable.

"The widespread use of booster seats has reduced the number of child injuries but it has not fixed the problems with the seat belt itself," Kuhlman added. "Four- to 8-year-old child occupants have been neglected in vehicle design for years and continue to get injured."

On a cloudy but dry morning in January 2005, Cynthia Sitz-Davanzo, 41, was driving her two children and 6-year-old Jessica Goggio to school in St. Charles County. Jessica was wearing her lap belt in the rear-center seat of Sitz-Davanzo's 1998 Isuzu Trooper.

As Sitz-Davanzo traveled eastbound on Mexico Road, 16-year-old high school student Brittainy Wise was driving her 1999 Land Rover Discovery in the opposite direction. Wise lost control of her SUV and hit the Trooper head-on, killing Sitz-Davanzo.

During the collision, Jessica slid underneath the lap belt, resulting in serious abdominal injuries and fracturing her spine. She underwent four surgeries, including the placement of a colostomy bag. Her spinal fracture required surgery to install posterior spinal fusion hardware, but she did not suffer paralysis.

John Goggio, Jessica's father, argued that the Trooper's seat belt was not properly designed to protect child passengers in frontal collisions. The seat belt was a lap belt only without a shoulder belt, commonly referred to as a two-point belt. The belt extends from hip to hip and does not cross the shoulder or chest.

When an occupant is involved in a frontal collision, plaintiffs argued, the two-point belt does not prevent the upper torso from being thrown violently forward over the lap belt. This motion causes severe strain on the tendons and ligaments around the spine. The belt can also cause direct injury to the spinal column and crush the abdomen between the belt and the spine.

Plaintiffs argued that this pattern of injuries is referred to as seat-belt syndrome, which has been well-recognized in medical literature since the 1960s. Jessica's treating physicians at St. Louis Children's Hospital were trained to diagnose and treat seat-belt syndrome injuries in children, who are more susceptible to such injuries than adults because of their lack of muscle and bone development. A child's immature hips also allow the seatbelt to slide up into the abdomen more easily than those of an adult, increasing the likelihood that a child will suffer abdominal injuries.

Plaintiffs further alleged that inadequate seat design exacerbated the dangerous nature of the lap belt and contributed to Jessica's injuries. They argued that a well-designed seat contains substructure that helps keep the seat belt on an occupant's hips during a collision by raising the hips, thereby reducing the risk of abdominal injuries. The Trooper's rear outboard seats were contoured, but the center position was essentially flat, allowing Jessica's hips to slip under the seat belt.

According to plaintiffs, the Isuzu Ascender, which replaced the Trooper in 2003, no longer has only a lap belt in the rear center position. A lap and shoulder belt was installed in all three rear-seat positions of the Ascender.

Isuzu denied that the Trooper's lap belt and seat design were defective.

During discovery but before either side designated experts, the plaintiffs reached the confidential settlement with Isuzu and policy limits settlements of \$100,000 with Wise and \$100,000 with Sitz-Davanzo's estate.

"There's nothing wrong with the design of this vehicle," said Christopher Spencer of Richmond, Va., attorney for Isuzu. "We had evidence that this crash was as violent as if the vehicle was pushed nose-first off the roof of a seven-story building. We felt very good about the engineering and science of the entire case.

"The things we couldn't change were that we had a wonderful, sweet little girl with a bad injury," Spencer said. "We had to look at risk and what a City of St. Louis jury would do. I'm pleased we were able to settle the case."

Lawrence Smith and Jeffrey K. Suess, St. Louis attorneys for Wise and the Estate of Sitz-Davanzo, did not respond to requests for comments.

— Anne C. Vitale

Goggio v. Isuzu Motors Ltd., et al.

Type of Action: Products liability
Type of Injuries: Abdominal injuries and spinal fracture
Court/Case Number/Date: St. Louis City Circuit Court/052-9285/Dec. 13, 2006
Caption: Goggio v. Isuzu Motors Ltd., et al
Judge, Jury or ADR: Mediation
Name of Mediator: Richard McLeod
Verdict or Settlement: Confidential settlement with Isuzu Motors, Ltd.: \$100,000 settlement with Estate of Sitz-Davanzo; \$100,000 with Wise
Special Damages: \$165,000 past medical expenses
Allocation of Fault: N/A
Last Offer: N/A
Last Demand: N/A
Attorneys for Plaintiff: Bradley D. Kuhlman and Chad C. Lucas, Evans & Kuhlman, Kansas City; Stephen Glassman, The Glassman Law Firm, St. Louis

Attorneys for Defendants: Christopher Spencer, O'Hagan & Spencer, Richmond, Va. (for Isuzu); Maureen McGlynn, McGlynn & Luther, St. Louis (for Isuzu); Jeffrey K. Suess, Rynearson, Suess, Schnurbusch & Champion, St. Louis (for Estate of Sitz-Davanzo); Lawrence Smith, Brinker & Doyen, St. Louis (for Wise)

Insurance Carrier: Tokio Marine (for Isuzu); Progressive Halcyon Insurance Company (for the Estate of Sitz-Davanzo) and State Farm Mutual Insurance Company (for Wise)

Plaintiff's Experts: Not disclosed
Defendant's Experts: Not disclosed



The Isuzu Trooper's driver was killed in the head-on collision. The injured child had been in the rear seat, buckled with a lap belt in the middle position. Her injuries required four surgeries.