

Auto manufacturers settle suit over seat belt design

Plaintiff severely injured in head-on crash

A Saline County woman, already suffering from cerebral palsy when she was severely injured in a crash after her seat belt failed, received confidential settlements from Ford, Kia, Mazda and the seat belt manufacturer.

Tammy Smith was driving home from a Wal-Mart on Dec. 29, 2006, when her 1995 Aspire was involved in a head-on collision with Larry Ownby's pickup truck after he failed to yield.

Although Smith was properly wearing her lap and shoulder belt, she ended up on the floor between the dashboard and her seat with severe orthopedic injuries that left her as a functional paraplegic.

An 8-inch "rip stitch" had been incorporated into the seat belt Smith was wearing. The stitch was designed to come apart when an occupant applied force to the belt during a crash. This design resulted in about 16 inches of slack in Smith's seat belt during the crash; she slipped under the belt and ended up on the floorboard.

The 1995 Ford Aspire was a joint venture between Ford Motor Co., Kia Motors Corp. and Mazda Motor Corp. Mazda designed it, Kia manufactured it and Ford sold it. Duck Boo, a Korean company, sup-

plied the seat belts. Product liability claims were asserted against all four companies.

Smith alleged the seat belt system was defective for incorporating the rip stitch, arguing slack should never intentionally be introduced into a seat belt system. She claimed the rip stitch was used by the defendants to "game" the federal crash test requirements.

Bradley D. Kuhlman, Smith's attorney, explained the defendants were concerned with meeting the federal head injury requirement, so they used the rip stitch to introduce slack to the seat belt system.

"They tried to make a seat belt system that would get the person out of the way of the airbag and bring their head and chest away from the airbag," he said.

Kulmann said there have been "tons" of cases like this one in which people were getting seriously injured, ejected or killed. "It was a really, really bad idea."

In his client's case, the situation was made worse because the vehicle was a Ford Aspire, a small car.

"The people in the car who weren't wearing seat belts were less injured than our client," Kuhlman said.

The defendants claimed the seat belt design was not defective.

Confidential settlement

PRODUCT LIABILITY

Court: Saline County Circuit Court

Case Number/Date: 07SA-CV00030/May 26, 2009

Judge: Dennis A. Rolf

Plaintiffs' Experts: Robert Caldwell, Lafayette, Colo. (accident reconstruction); Louis D'Aulerio, Penns Park, Pa. (seat belts); Martha Bidez, Birmingham, Ala. (biomechanics); Dr. Steven Simon, Overland Park, Kan. (future medical needs); Kathie Allison, Kansas City (life care planning); Wilbur Swearingin, Springfield (vocational rehabilitation); Bernard Pettigill Jr., Palm Beach Gardens, Fla. (economist)

Defendants' Experts: Dan Davee, Phoenix (seat belts); Jeff Pearson, Detroit (seat belts); Deborah Marth, Detroit (biomechanics)

Caption: Tammy Smith v. Ford Motor Co., Mazda Motor Corp., Kia Motors Corp., Duck Boo International Co., and Larry Ownby

Plaintiff's Attorneys: Bradley D. Kuhlman, Chad C. Lucas, The Kuhlman Law Firm, Kansas City; Mark T. Kempton, Spencer W. Eisenmenger, Kempton & Russell, Sedalia

Defendants' Attorneys: Rodney E. Loomer, Sherry A. Rozell, Turner, Reid, Duncan, Loomer & Patton, Springfield; Keith Phoenix, Kevin P. Krueger, Sandberg Phoenix and von Gontzard, St. Louis

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"Our position was the restraint system was reasonably safe design and that this was a severe crash," said Rodney E. Loomer, defense attorney for Ford, Mazda and Kia.

However, Loomer said he thought the client received a fair settlement.

"She had the most unique injury case I've seen in a while," he said, noting she had orthopedic challenges before the wreck, because of cerebral palsy, that the accident made worse.

Defendant Duck Boo claimed the court lacked personal jurisdiction and the com-

pany could not be sued in the United States because it "just sold" the seat belt and did not know where it was going.

After extensive discovery and briefing on the issue, the court determined it did have jurisdiction over Duck Boo because Duck Boo sent the seat belt model in question to the U.S. for testing to ensure it complied with U.S. safety standards.

All four product liability defendants settled for confidential amounts shortly before trial.

— Sarah Wienke