Products Liability Law Daily Wrap Up, EVIDENTIARY ISSUES—MOTOR VEHICLE EQUIPMENT—D. Colo.: Driver's diabetic medical information admissible during trial against Toyota, (Sept. 13, 2023)

Products Liability Law Daily Wrap Up

By Brian Craig, J.D.

Information relayed to third parties, certain 911 calls, and medical records could be used to show the driver's negligence.

In a products liability case brought by a passenger injured in a motor vehicle collision against manufacturer Toyota Motor Corporation, the federal district court in Colorado has ruled that the driver's diabetic medical information was admissible at trial. In the lawsuit alleging defective design and manufacture of the airbags and other safety systems, the court concluded that the diabetic medical information evidence was relevant to demonstrate the driver's negligence and the degree of the driver's negligence in apportioning the percentage of fault. The court will permit the manufacturer to introduce evidence at trial of the driver's medical information relayed to third parties, certain 911 calls, and the driver's medical records (*Nelson v. Toyota Motor Corp.*, September 12, 2023, Wang, N.).

A passenger who survived the collision filed suit against Toyota Motor Corporation and Toyota Motor Sales, U.S.A., Inc. for strict liability, alleging that the safety systems, including the pretensioner and airbags, were defectively designed and manufactured. The passenger in the Toyota Rav4 vehicle was seriously injured while sitting in the front seat. The vehicle was driven by the plaintiff's grandfather. The vehicle swerved out of its lane and hit a utility pole, rolling over several times. The driver survived the crash. Another passenger, the driver's wife (the plaintiff's grandmother), died at the scene. The vehicle's front airbags, side-curtain airbags, and seatbelt pretensioners did not deploy. The vehicle manufacturer filed an affirmative motion in limine seeking to admit the driver's diabetic medical information at trial to demonstrate the driver's negligence. The court generally found the evidence relevant and admissible.

Diabetic medical information. The court first concluded that the driver's diabetic medical information relayed to third parties was relevant to demonstrate the driver's negligence and the degree of his negligence for purposes of apportioning fault. Statements regarding the driver losing control of the vehicle were relevant because they bore on the probability of facts that were highly consequential to the jury's assessment of the degree to which the driver was at fault for the passenger's injuries. Evidence of the driver's management of his diabetes and glucose levels on the day of the crash was relevant and probative. Third-party evidence about the driver's diabetic condition before the collision could inform the jury as to the potential actions of other occupants of the vehicle during the collision.

Emergency 911 calls. Next, the court held that some emergency 911 calls involving the driver were relevant and admissible. The court previously ruled that pre-collision 911 calls could not be used to demonstrate that others should have attempted to stop the driver from driving. But the court permitted the manufacturer to ask the driver if his diabetic condition resulted in 911 calls before the collision, and whether any such 911 calls involved his operation of a motor vehicle. A call made by another person nearly three years after the collision involving the driver, however, was generally not admissible. But the pre-collision and post-collision 911 calls may be used for impeachment purposes.

Medical records. Finally, the court found that the driver's medical records concerning his diabetic condition on the day of the collision and before the collision were admissible. The medical records may go to the driver's knowledge of his condition, which would inform the jury's assessment of the degree of his culpability. The records may show that the driver was instructed, or even on notice, not to drive, or that he was careless in the management of his diabetes.

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The jurors may be more likely to find the driver responsible for the collision, to a greater degree than they would have without the evidence, on a theory that a reasonable person who'd had four separate doctor visits within four months of the crash would have avoided driving.

Therefore, the court generally granted the motion in limine.

The case is No. 20-cv-03119-NYW-KAS.

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Companies: Toyota Motor Corp.; Toyota Motor Sales, U.S.A., Inc.

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