

[Products Liability Law Daily Wrap Up, TOP STORY—JURY VERDICTS —W.D. Tex.: Jury awards nearly \\$16 million in E-Z-GO Workhorse acceleration injury case, \(Apr. 4, 2016\)](#)

Products Liability Law Daily Wrap Up

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By Susan Lasser, J.D.

A federal jury in Texas has awarded \$15.8 million to a rancher who was run over by a utility vehicle while she was opening a pasture gate. A bag of cattle cubes fell on the vehicle's accelerator, which released the parking brake and caused the vehicle to accelerate forward and strike her. The jury determined that a combination of a design defect in the utility vehicle as well as the rancher's own negligence caused the accident and her injuries (*Nester v. Textron, Inc.*, March 31, 2016).

Utility vehicle, injury, and claims. The rancher and her husband, cattle ranch owners, purchased a used E-Z-GO Workhorse ST350 (Workhorse), a utility vehicle manufactured by Textron, Inc. d/b/a E-Z-GO (Textron). The Workhorse is a golf cart-like vehicle, and its ignition switch is operated by using a key which turns on the vehicle's electrical system. The engine does not start until the accelerator is depressed, and releasing the accelerator turns off the engine. The Workhorse also uses a "kick-off" brake system whereby the parking brake is physically linked to the accelerator pedal so that depressing the accelerator automatically releases the parking brake. On the day of the accident, the user loaded a 50-pound bag of cattle cubes onto the passenger-side floorboard of the Workhorse. She then drove the vehicle into the pastures on the ranch to attend to the cattle. At a gate separating fields, she stopped the Workhorse, applying the parking brake, and exited the vehicle to open the gate. She did not turn the key to the "off" position before exiting. While she walked to the gate with her back to the vehicle, the bag of cattle cubes fell onto the Workhorse's accelerator pedal, releasing the parking brake and causing the Workhorse to accelerate forward. The vehicle struck the user, knocking her to the ground and running her over. She sustained vertebrae fractures in her neck, which required two surgeries to repair. Her injuries rendered her quadriplegic and in need of constant medical care.

The rancher and her husband, on behalf of themselves and their two minor children, filed a [complaint](#) against Textron, asserting claims for strict liability, alleging design and marketing defects; negligence; breach of warranty; duty to recall; gross negligence; and res ipsa loquitur. A December court ruling granted in part and denied in part Textron's motion for summary judgment on the rancher's claims, sending design and warning defect claims to the jury (see *Products Liability Law Daily*, December 28, 2015, [analysis](#)).

Jury verdict. The jury found that there was a design defect in the utility vehicle when it left Textron's possession that was "a producing cause" of the rancher's injury. However, the jury determined that there was no defect in the warnings or instructions that was a producing case of the injury when the vehicle left the manufacturer's possession. In addition, the rancher's own negligence also played a role, proximately causing her injury, the jury said. As a result, the jury found that Textron and the rancher equally shared, 50-50, responsibility for the rancher's injury.

Damages. To compensate the rancher for her injuries, the jury awarded the following: \$500,000 for physical pain and mental anguish sustained in the past; \$1.5 million for physical pain and mental anguish that, in reasonable probability, she will sustain in the future; \$95,625 for loss of earning capacity sustained in the past; \$106,250 for loss of earning capacity the rancher will likely sustain in the future; \$2 million for past and future physical impairment; \$1 million for past and future disfigurement; \$975,000 for medical care expenses sustained in the past; and \$4.2 million for reasonable expenses of necessary medical care that, in reasonable probability, the rancher will sustain in the future.

The jury awarded approximately \$2.4 million to compensate the rancher's husband: \$65,000 for loss of household services sustained in the past and \$366,000 loss of household services her husband reasonably will sustain in the future; and \$2 million in past and future loss of consortium. The jury found that the physical injury to the rancher was "a serious, permanent, and disabling injury, and awarded \$1.5 million apiece to the rancher's two minor children for the loss of parental consortium resulting from their mother's physical injury.

The jury did not find by clear and convincing evidence that the harm to the Nesters resulted from gross negligence attributable to Textron.

The case is No. [1:13-CV-00920-RP](#).

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Companies: Textron, Inc. d/b/a E-Z-Go

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