

[Products Liability Law Daily Wrap Up, TOP STORY—DAMAGES—MOTOR VEHICLES—Ga. Super.: Retrial rejected in Jeep fire death; but jury award decreased to \\$40 million, \(Jul. 29, 2015\)](#)

Products Liability Law Daily Wrap Up

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By Susan Lasser, J.D.

A request for a new trial was denied by a Georgia superior court in an action based on a Jeep Grand Cherokee fire in which a 4 year-old boy was killed. A state court jury awarded the child's parents \$150 million in their action against Chrysler Group LLC. Although it rejected the manufacturer's motion for a new trial, the court conditioned its denial on the parents' acceptance of a remittitur of the wrongful death and pain and suffering verdicts, thereby decreasing the award to \$40 million. The parents accepted the court's terms this week ([*Walden v. Chrysler Group, L.L.C.*](#), July 24, 2015, Chason, J.).

Background. In March 2012, Remington (Remi) Cole Walden was a backseat passenger in a 1999 Chrysler Jeep Grand Cherokee driven by his aunt when the vehicle was rear-ended. According to the [complaint](#) filed by Remi's parents, James Bryan Walden and Lindsay Newsome Strickland, the rear-mounted gas tank on the Jeep Grand Cherokee ruptured as a result of the rear impact, allowing gasoline to escape. The gasoline ignited, and the Jeep Grand Cherokee and Remi were engulfed in flames. Among other allegations, the complaint asserted that the placement of the gas tank made the vehicle defective in its design. The parents also alleged that the manufacturer knew that the gas tank was located in a dangerous position, making it vulnerable to rear-end impact. Moreover, in 2005, Chrysler moved the gas tank away from the rear of the Jeep Grand Cherokee to a safer, "midship" location. At the time of the accident, every passenger car sold in the United States by Chrysler had its gas tank in the "midship" location and Chrysler sold no passenger cars with rear gas tanks, the complaint alleged. The parents asserted that although Chrysler knew it had a duty to warn the public as to their Jeeps with gas tanks placed in a dangerous location and the possibility of a fire in the event of a rear-end collision, the manufacturer failed to do so. The complaint additionally asserted that Chrysler's willful, wanton, and reckless conduct proximately caused the child's burn injuries and death.

Jury verdict. After two hours of deliberations, the Georgia state court jury found that the vehicle was defective and dangerous as designed, and awarded Remi's parents \$150 million. According to an April 3, 2015 [blog posting](#) by [Butler Tobin](#), the law firm representing the parents and the child's estate, the parents' trial was the first trial and first verdict against Chrysler (now known as FCA US LLC) for a rear gas tank lawsuit. The law firm's press release noted that federal documents show that at least 75 people have died in fuel-fed fire tank explosions. It also noted that Chrysler admitted that the gas tank caused the fire that killed the boy. The manufacturer only called one witness from Chrysler, Chief Operating Officer Mark Chenoby, who refused to admit that if an automaker knows of a danger, it has a duty to warn of that danger. FCA Chairman, Sergio Marchionne was deposed in the litigation and stated that under federal minimum compliance standards, compliance with Federal Motor Vehicle Safety Standard 301 was no defense; that the federal standards were only minimum standards; and that compliance with a minimum standard is not sufficient, according to the blog posting.

Motion for a new trial. The court found the evidence against FCA was overwhelming and that there was no merit in the car maker's assertion that the jury acted from "passion" or "prejudice." The court found the jurors throughout the trial to be "respectful, on time, and attentive" and saw nothing to indicate that they were "inflamed" or "irrational." Nor was the court presented with persuasive evidence or argument to make it think otherwise. Therefore, the court found no evidence or observed any conduct that would support the automaker's claim that

the jurors ignored the court's instruction or that would overcome the law's presumption that the jurors followed the court's charge.

In addition, the court rejected FCA's criticisms of the court's jury instruction, finding instead that the charge was "complete, accurate, and fair" and noting that much of the charge was requested by FCA itself. Stating that it charged the jury as to the verdicts according to Georgia law, the court found no merit in the manufacturer's assertion that the jury was not given "guidance" on the amounts of any verdicts it might render.

Further, no merit was found as to the manufacturer's criticism of the parents' cross-examination of FCA witnesses and of the plaintiffs' opening statement and closing arguments. The court noted that FCA failed to object at trial, or its objection was not timely.

Remittitur. The court denied the automaker's motion for a new trial, conditioned on the parents' acceptance of a remittitur (1) of the wrongful death verdict to \$30 million, and (2) of the pain and suffering verdict to \$10 million. Absent acceptance by the parents, the court said it would grant the motion for a new trial. In a July 27 court filing, the parents [accepted](#) the remittitur.

The case is [No. 12-CV-472](#).

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Companies: Chrysler Group LLC (now known as FCA US LLC)

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