

Products Liability Law Daily Wrap Up, TOP STORY—JURY VERDICTS —D.S.C.: Jury's \$4.7M award in defective airbag litigation reduced by driver's negligence, (Aug. 30, 2016)

Products Liability Law Daily Wrap Up

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By Pamela C. Maloney, J.D.

A federal jury in South Carolina awarded a total of \$4,650,000 in damages to the family of an SUV driver who was injured in a one-car accident during which his airbag failed, finding that the airbag system in the driver's 2010 Ford Escape had been defectively designed. The driver, who committed suicide a year and a half after the accident, was found to be 30 percent at fault, thereby reducing the total award to \$3,255,000. The jury denied the family's request for punitive damages ([Wickersham v. Ford Motor Co.](#), August 26, 2016).

The SUV driver, who had a history of mental illness, was injured in a single-car accident when his 2010 Ford Escape hit a tree after the driver made a left turn. The driver sustained significant injuries, including the eventual loss of one eye, and he suffered severe pain as a result of the accident. Seventeen months later, he committed suicide. His wife, alleging that failed airbags caused both the injuries and the suicide, filed suit in South Carolina federal district court against Ford Motor Company. She asserted claims both individually and as her husband's representative for negligence, strict liability, and breach of warranty.

Ford filed a motion for summary judgment, making three arguments: (1) the wife's claims failed to show the existence of a feasible alternative design; (2) the suicide broke the causal chain in a wrongful death claim; and (3) punitive damages were inappropriate under these facts. The court found genuine issues of material fact on all three matters and denied Ford's motion for summary judgment on insufficient alternative design, suicide as a breaker of proximate cause, and the insufficiency of punitive damages. The court, however, granted Ford's motion for summary judgment on the wife's failure-to-warn claim [see *Products Liability Law Daily*'s July 12, 2016 analysis].

Jury's verdict. The jury itemized its verdict as follows:

- \$1,250,000 for the pain and suffering experienced by the SUV driver between the date of the accident and the time of his death;
- \$650,000 for his wife's loss of consortium from the date of the accident until the time of his death;
- \$1,375,000 for his wife's loss of consortium after the driver's death; and
- \$1,375,000 in wrongful death damages for the driver's beneficiaries.

The case is No. [9:13-cv-1192-DCN](#).

Attorneys: Donnie Charles Gibson (Don C. Gibson Law Firm) for Crystal L. Wickersham. Carmelo B. Sammataro (Turner Padget Graham and Laney) for Ford Motor Co.

Companies: Ford Motor Co.

MainStory: TopStory JuryVerdictsNewsStory DamagesNews DesignManufacturingNews WarningsNews