

GM found not liable in bellwether case over ignition defect

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4 April 2016

A jury in Manhattan found General Motors not liable in an accident involving a car equipped with a defective ignition that has been tied to at least 169 deaths.

The trial was one of six cases meant as a bellwether for the settlement of hundreds of lawsuits against GM as a result of the ignition defect. General Motors selected three of the cases, choosing what it considered to be the weakest first.

The accident involved a crash on an icy bridge in New Orleans in 2014. Dionne Spain and Lawrence Barthelemy were riding in their 2007 Saturn Sky when it spun out of control. The couple suffered back injuries as a result of the ensuing crash.

The jury found in its decision that while the ignition was defective, making the car unsafe to drive, it did not contribute to the accident in question. It laid the blame on the icy road conditions that led to more than 30 other crashes that day in the same area.

In announcing the verdict, the judge said that lawyers for both sides should not read too much into the decision. "It's obvious the outcome in this case might not dictate the outcome in other cases."

In 2014, GM recalled hundreds of thousands of Chevrolet Cobalts, Saturn Ions and other lower-end vehicles with faulty ignitions that could cut off suddenly, leading to possible loss of vehicle control under conditions where safety equipment such as airbags was disabled. GM knew of the defect for more than ten years, but refused to order a recall out of cost considerations.

In an earlier test case the plaintiffs lost their suit against GM after evidence emerged pointing to perjury on the part of the injured Oklahoma man, Robert Scheuer, a postal worker. The judge threw out the case over claims that a document submitted by the plaintiff, a pay stub used to show that he and his wife had the

income required to purchase a new house, was doctored. The man had claimed that injuries he suffered in a May 2014 wreck involving their Saturn Ion caused him to lose the house.

In fact, the alleged perjury had nothing to do with the accident itself. The central fact of the case, that the defect kept the airbags on Scheuer's car from deploying, was not in dispute. Scheuer said his quality of life deteriorated as a result of back injuries he suffered in the crash.

In the case of Spain and Barthelemy, the plaintiff's lawyer expressed disappointment with the jury's decision. "We definitely disagree with the overall verdict," he said. "But we're pleased with the findings that the jury made with regard to the fact that our client's car was unreasonably dangerous."

The next trial is scheduled to start May 2. At this point GM says it is aware of 230 cases being brought against it. Most of the actions have been consolidated in the state of New York.

General Motors set up a compensation fund to pay off victims of the defective ignition in hopes of avoiding costly lawsuits. Before wrapping up late last year, the fund paid out nearly \$600 million in cases involving 124 deaths and 275 serious injuries. However, the funds administrator Kenneth Feinberg rejected 90 percent of claims. Those who did not receive compensation are free to sue. However, due to provisions in GM's 2009 bankruptcy filing, the company says it cannot be held liable for accidents occurring before July 2009.

In addition to the death claims paid through the victim compensation fund, GM settled civil lawsuits, including 45 death claims, for which it took a \$575 million charge against profits. An independent investigation by the consumer group Center for Auto

Safety estimated that there were at least 303 fatal accidents involving the now recalled vehicles in which airbags did not deploy.

In the wake of the debacle of the first trial, Lance Cooper, the attorney who first exposed GM's cover-up of the ignition defect, raised questions about the legal competence of the lead attorneys in the Oklahoma case. "If there had been adequate preparation, this case would never have been tried," Mr. Cooper told the *New York Times*. "It was a disaster."

Cooper said the legal team in the Oklahoma case failed to properly vet the plaintiff before the case came to trial. He filed a motion with the judge in the case to remove the three attorneys leading the litigation against GM, accusing them of conflicts of interest.

The judge overseeing the case rejected Cooper's claim as "baseless."

In September 2015 GM settled 1,385 death and injury claims relating to the ignition defect for \$275 million and a class action for \$300 million. The current litigation was not part of that settlement process and involves cases that GM felt were weaker.

To date GM officials have avoided any jail time for the cover-up of the ignition defect. The US Justice Department ended a criminal probe of the automaker by imposing a \$900 million penalty. It accepted uncritically the self-serving claims by GM officials that they were unaware of the defect until 2014, despite conclusive evidence that the company had been alerted to problems with the ignition switch as early as 2001.

The GM ignition scandal is following a well trodden path in which corporate criminals, from the Wall Street bankers who brought down the world economy in 2008 to officials at BP responsible for the Gulf oil spill, have gotten away without facing criminal charges for their actions. In the final analysis the fines imposed by the government represent little more than a cost of doing business for the corporate malefactors.



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