

Federal Jury Verdict Reporter

The Most Current and Complete Summary of Federal Jury Verdicts

October 2006

Nationwide Federal Jury Verdict Coverage

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Notable Verdicts in The October 2006 Issue

Age Discrimination - OK (Muskogee) - A key employee at an aircraft parts company was fired because of a combination of his age and disability - \$3,418,000 p. 14

Aircraft Negligence - CA Northern (Sacramento) - A doctor was injured in a plane crash – he blamed a company that performed a pre-purchase inspection on the plane - Zero p. 6

Employment Retaliation - CA Northern (San Francisco) - A Mexican driver for Federal Express alleged retaliation after complaining of discrimination - \$500,000 p. 5

Pregnancy Discrimination - IL Northern (Chicago) - Restaurant manager fired while pregnant - \$380,000 p. 9

Premises Liability - WA Western (Tacoma) - The plaintiff was injured at Wal-Mart when struck by a chain of shopping carts being pushed by a retarded employee - \$95,833 p. 19

Products Liability - AL Northern (Huntsville) - Plaintiff was badly burned when his charcoal ignited - Zero p. 4

Products Liability - PA Middle (Harrisburg) - Plaintiff suffered a hand injury when his tree trimming pole broke and fell upon him - Zero p. 16

Race Discrimination - PA Eastern (Philadelphia) - The black marketing director for a sports radio station alleged he suffered discrimination - Zero p. 17

Roadway Negligence - CT (New Haven) - A bicyclist on a tour crashed when he struck rough asphalt - Zero p. 7

Sexual Harassment - MN (Minneapolis) - A police recruit alleged she was raped at the police academy - \$300,000 p. 12

Wrongful Conviction - IN Northern (Hammond) - A man spent eighteen years in jail for a rape he did not commit, a detective having withheld evidence - \$9,000,000 p. 10

Verdict of the Month

Products Liability - A teenage girl was killed in a one-car roll-over crash – her estate blamed her death on a combination of (1) insufficient roof strength and (2) a defective seat belt

McCuller v. DaimlerChrysler et al, 2:04-339

Plaintiff: Leon R. Russell, *Russell & Shiver*, Dallas, TX and Michael C. Smith, *Roth Law Firm*, Marshall, TX

Defense: Chris A. Pearson and G. Robert Sonnier, *Clark Thomas & Winters*, Austin, TX and G. Richard Grainger, Tyler, TX for DaimlerChrysler
David R. Tippetts, *Pillsbury Winthrop Shaw Pittman*, Houston, TX for TRW Vehicle Safety

Verdict: Defense verdict on liability

Court: Texas Eastern - Marshall

Judge: T. John Ward

Date: 9-22-06

There was a tragic car wreck on 10-31-03. Cassie McCuller, then age 17, was driving a 2003 Jeep Liberty in Titus County near Talco. For reasons that aren't known, McCuller left the roadway – she overcorrected and the Jeep rolled over. In the roll, the roof was crushed and McCuller was ejected. The girl sustained multiple traumas and died later at a local hospital.

In this lawsuit, McCuller's parents sued DaimlerChrysler alleging a defect in the strength of the roof – that is, had the roof been stronger, it would have protected the girl. Also sued was TRW Vehicle Safety, the designer of the Jeep's seat buckle. The plaintiff's proof was that the girl was properly buckled and she was only ejected because the buckle failed. A key expert for the estate was Stephen Syson, Goleta, CA.

TRW first defended that its seat buckle was not defective – it postured that the girl wasn't wearing it, that event leading to her ejection. Alternatively, TRW also developed that even by plaintiff's theory, it could not be at fault. That is, had the seat buckle worked, she still would have been killed by the purportedly weak roof. Similarly, DaimlerChrysler denied its roof was defective, also developing that in any scenario postured by the plaintiff, the wreck was not survivable. Plaintiff countered that with a combination of a properly designed roof and buckle system, McCuller would have survived. Defense experts included Thomas McNish, Engineer, San Antonio, TX, Nick Dunisek, Engineer, The Woodlands, TX and Michelle Vogler, Statistics, Novi, MI.

The jury in this case found for DaimlerChrysler on the design defect claim – it also exonerated TRW on the count related to the seat buckle. A defense judgment followed.

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