

# The Tennessee Jury Verdict Reporter

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Statewide Jury Verdict Coverage

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**Products Liability - The plaintiff suffered serious injuries when his Can-Am Spyder recreational vehicle (it's a three-wheeled motorcycle of sorts that is manufactured by Bombardier) suddenly overturned when the rear wheel locked up because of a defect in the vehicle's onboard computer that deployed the parking brake – Bombardier replied that the vehicle has a fail-safe design that prevents deployment of the parking brake above 6.2 mph and that it was more likely the accident occurred because the plaintiff's jacket became intertwined with the rear wheel**

*Gunn v. Bombardier Recreational Products (BRP), 3:19-997*

Plaintiff: Edmund J. Schmidt, III, *Law Office of Eddie Schmidt*, Nashville and Aldo J. Stolte, *Stolte Law Firm*, Nashville

Defense: Kevin C. Baltz and Kathryn I. Carrington, *Butler Snow*, Nashville

Verdict: Defense verdict on liability

Federal: **Nashville**

Judge: William L. Campbell, Jr.

Date: 1-17-23

Gary Gunn, then age 68, was driving home from church on the morning of 12-2-18. He was driving a 2018 Can-Am Spyder RT recreational vehicle manufactured by Bombardier Recreational Products (BRP). The vehicle is a motorcycle of sorts with three wheels. Gunn had festooned his Spyder with a stuffed Santa Claus doll that was pulled by a small trailer.

Gunn was proceeding at 45 mph or

so on Gallatin Highway in Sumner County. Suddenly the rear wheel on the Spyder locked up. This caused Gunn to lose control. The Spyder overturned and during at least of one its rolls (it's not clear exactly how many rolls there were), it rolled on top of Gunn.

The result of this accident was to leave Gunn with third-degree road rash burns to his lower extremities. He also suffered a torn ligament in his thumb as well as a puncture wound in his right foot. His medical bills were approximately \$280,000.

Gunn sued BRP and blamed the crash on either a manufacturing and/or design defect in the Spyder. The defect in the onboard computer led it to send an errant code that caused the parking brake to deploy – this in turn locked up the rear wheel and led to the roll-over. Gunn's liability expert was Pete Sullivan, an ASC technician from Houston, TX who is an expert in onboard control systems. The jury could award Gunn non-economic and economic damages in several categories.

BRP defended the case on several fronts. The first was that the event could not have happened as Gunn postured. Why? The vehicle had a fail-safe system whereby the parking brake cannot activate when the vehicle is traveling at more than 6.2 mph. The defense engineer expert was Kevin Breen, Fort Myers, FL.

Why then had the wheel locked up? BRP had an explanation. It