

The Tennessee Jury Verdict Reporter

The Most Current and Complete Summary of Tennessee Jury Verdicts

January, 2005

Statewide Jury Verdict Coverage

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Unbiased and Independently Researched Jury Verdict Results

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Civil Jury Verdicts

Timely coverage of civil jury verdicts in Tennessee including court, division, presiding judge, parties, case number, attorneys and results.

Products Liability - An infant rear-seat passenger suffered a fatal injury in a moderate rear-end crash after the seat in front of him collapsed and that passenger struck him in the head

Flax v. DaimlerChrysler, 02-1288
Plaintiff: J.E. Baker, Jr., George W. Fryhofer, III and Leigh Martin May, *Butler Wootten Fryhofer Daugherty & Crawford*, Atlanta, GA and Gail Vaughn Ashworth, *Gideon & Wiseman*, Nashville
Defense: Lawrence A. Sutter, Cleveland, OH and Joy D. Burns, Franklin, both of *Sutter O'Connell Mannion & Farchione*
Verdict: \$105,500,000 for plaintiffs
County: **Davidson**
Judge: Hamilton Gayden
11-22-04

It was 6-30-01 and Joshua Flax, eight months old, was a passenger in a 1998 Chrysler Grand Caravan. His grandfather, Jim Sparkman, was driving. A friend of Sparkman's, Joe McNeil, was a front seat passenger. Important to the case, while Joshua was in the van's back seat, the seat was front facing -- his mother, Rachel Flax, sat next to him.

Moments later, Sparkman turned onto Old Charlotte Pike from a private drive. Suddenly they were rear-ended by the inattentive and speeding Louis Stockell. He was in a 1969 pick-up. The collision was moderate, knocking

the minivan off the road and into a tree.

The mechanics of the crash caused the front passenger's seat to collapse. McNeil fell backwards into the back seat, his head colliding with Joshua's. None was hurt in the crash except Joshua -- in fact, everyone else walked away. The impact left Joshua with a serious head injury, his skull having been fractured. Life support was discontinued and he died the next day.

In this products liability lawsuit, the Flax estate sought recovery from the minivan manufacturer, DaimlerChrysler (Chrysler). [Predicated on the same facts, Rachel also presented a claim for negligent infliction of emotional distress.] Her husband and Joshua's father also participated -- since this devastating event, the parents have divorced.

It was plaintiff's allegation that the front seat was too weak for this relatively minor collision to cause it to collapse -- that collapse caused the front seat passenger to be jerked into the back seat and into Joshua. Plaintiff's key liability expert was Kenneth Saczalski, Engineer, Newport Beach, CA. While the seat met federal standards, plaintiffs developed that stronger seats were available to Chrysler as they were used in its Sebring and Dodge Ram models. Stockell was also sued. He however never made an appearance in this case. His duties would remain in issue for purposes of comparative fault.

Beyond just a simple claim that the seat was unreasonably dangerous, being too weak to withstand this ordinary collision, plaintiffs alleged something more sinister. They put forth proof that Chrysler had entered into secret settlements around the country in similar lawsuits. In fact, Chrysler produced the amounts of the settlement