

Both parties filed 68 motions in limine, which were ruled upon by trial judge Hon. Robert H. O'Brien. On January 28, 2009, prior to jury selection, plaintiff elected to waive jury. The following day the defense likewise stipulated to waive jury, and to proceed by bench trial.

At the outset of trial, plaintiff also voluntarily dismissed his cause of action in negligence and proceeded upon Strict Liability Design Defect (stability and roof) and Failure to Warn theories of strict product liability.

General Injury: During the rollover sequence, Sam Pannu suffered a flexion injury at C6-7 with permanent spinal cord injury, rendering him an incomplete quadriplegic.

Result: \$21,654,000 judgment.

The parties presented their opening statements on February 9, 2009. The case was tried over the next four and half weeks. The parties gave their closing arguments on March 11, 2009, and the case was taken under submission by Judge O'Brien.

On March 23, 2009, Judge O'Brien issued his tentative. The Court found the Discovery I to be defectively designed under both the Consumer Expectation and Risk-Benefit tests, and that defendants failed to warn about the Discovery's inadequate stability and roof strength.

The Court awarded \$11,654,000 in economic damages and \$10,000,000 in general damages, apportioning 95% liability to the Land Rover defendants, and 5% to Bret Lusia.

Plaintiffs Expert Witnesses: Ted Kobayashi, Reconstruction; John Marcosky, Design/Stability; Ed Heitzman, Stability Testing; Brian Herbst, Design/Testing/Roof; Joseph Burton, Biomechanical

Defendant's Expert Witnesses: Lee Carr, Stability and Reconstruction; Garry Bahling, Roof; Elizabeth Raphael, Biomechanical; Jeffrey Croteau, Testing/Roof; Charles Hughes, CEO of Land Rover North America, Inc.; Terrance McGowan, Person Most Knowledgeable, Roof; Christopher Hoyle, Person Most Knowledgeable, Stability

Plaintiff's Attorneys: Garo Mardirossian, and Armen Akaragian of Mardirossian & Associates, Los Angeles, Cal.; Stanley Jacobs, Jacobs Jacobs & Eisfelder,

Defendant's Attorneys: Warren Platt, and Lee Mickus, of Snell & Wilmer, LLP,

Pannu v. Land Rover North America, Inc., et al., No. LC069992 (Los Angeles Superior Court Cal. March 23, 2009)

Comments

Plaintiffs' attorneys, Garo Mardirossian, and Armen Akaragian, comment that to prove our case, we had ex-

Automotive

\$21,654,000 Bench Verdict In Suit Alleging Defective Land Rover Discovery

On December 14, 2003, at 10:23 a.m., Mr. Sukhsagar Pannu, then age 47, was a seat belted driver of his 1998 Land Rover Discovery I in the No. 2 westbound lane on the 118 Freeway. The driver side of Mr. Pannu's Land Rover was struck by an Acura driven by 16-year-old Bret Lusia, who encroached from the No. 1 westbound lane. A witness had seen the vehicle speeding, weaving in and out of traffic lanes, just before the collision. After contact between the Acura, Mr. Pannu's vehicle moved to the right where it collided with a Blazer travelling in the No. 4 westbound lane. Mr. Pannu steered foreseeable avoidance maneuvers in an effort to control his Discovery I, but was unable to do so. The Land Rover went into a counter-clockwise yaw and rolled over 3 ½ times, coming to rest on its roof. During the roll sequence, the Discovery I's roof crushed, rendering Mr. Pannu a C6-C7 partial quadriplegic.

Plaintiffs brought suit against Land Rover for the Discovery I's alleged defective stability and handling characteristics and insufficient roof strength.

The defense contended that Mr. Pannu's Discovery I was not defective, and that it rolled due to tripping on a curb at the north edge of the 118 Freeway. The defense further asserted that roof strength does not matter since, according to the defense, Mr. Pannu dove to the roof and suffered his injury before any significant roof deformation occurred. The defense also contended that negligence on the part of 16-year-old Mr. Lusia was the sole cause of Mr. Pannu's injuries and damages, due to his erratic and dangerous driving.

tensive stability testing performed by industry leading experts in Pennington, New Jersey, to determine whether the Discovery I would experience two-wheel-lift when subjected to foreseeable accident avoidance maneuvers, as performed by Mr. Pannu at the time of the instant accident. Such testing included reverse steer maneuvers at 165 degrees left followed by 165 right and 180 left followed by 180 right, at 600 degrees per second steering rated. At these steering inputs, the Discovery I would experience two wheel lift at 0.81 lateral g's.

We then tested our alternate design, which involved widening the track width of the Discovery I two inches, and lowering the center of gravity 0.4 inches by installing lower profile tires. These simple and inexpensive changes were very similar to the changes Land Rover made in 1999 to the Discovery II. By testing this alternate design, plaintiff's experts demonstrated that if Land Rover had implemented these technologically feasible changes in 1994, when Land Rover first began selling the Discovery I in the United States, then Mr. Pannu's Discovery I would not have rolled over in this accident.

We also used matched drop testing of two 1999 Discovery I's, performed by Brian Herbst, P.E., of SAFE in Goleta, California. Both vehicles were instrumented and dropped from 18 inches, in accordance with former SAE J996. The tests were recorded with high-speed cameras, incorporating both external and internal views. The production roof drop test demonstrated the defective hinge points at the base of the A-pillar, roof bow, and header-A-pillar junction, in the design of the Discovery I roof structure. The production test corroborated the extent of roof deformation experienced by Mr. Pannu's SUV at the moment when Mr. Pannu suffered his C6-C7 injury.

We also demonstrated that by strengthening the roof structure of the Discovery I, with an alternate design that would cost Land Rover less than \$100.00 per vehicle, the roof of the Discovery I crushed only 3 inches even when subject to 30,000 lbs of force. This alternate design would have eliminated the extent of roof deformation that caused Mr. Pannu to suffer his debilitating injury during the rollover.

Notes

For another case involving allegations that the Land Rover Discovery was defectively designed, see *Windh v. Christiansen, Land Rover North America Inc., Ford Motor Company*, No. 01CC15984 (Orange Cty. Superior Ct. Cal. Sept. 8, 2005), 26 No. 2 *Verdicts, Settlements & Tactics* art. 44 (February 2006) (defense verdict in suit alleging defectively designed Land Rover Discovery).