The Legal Intelligencer
THE OLDEST LAW JOURNAL IN THE UNITED STATES 1843-2015
JUNE 18, 2015
An ALM Publication

$15.6M Verdict Stands in Case Against Toyota Dealers

BY P.J. D'ANNUNZIO
Of the Legal Staff

Photo: StaraBlazkova via Wikimedia Commons

In declining to hear argument in a personal injury case against Toyota dealerships, the state Supreme Court has allowed a $15.6 million verdict against the car company to stand.

The justices denied allocatur in Lewis v. Toyota Motor on Wednesday. The case involved passengers in a Toyota van who were injured when the vehicle malfunctioned and sped into a ravine.

Thomas Duffy of Duffy + Partners, who represented the plaintiffs, said, "Appeals are a question of whether or not the judge got it right, not whether the lawyers got it right, and the Supreme Court's ruling says that Judge Overton got it right and Judge Lazarus who wrote the opinion in the Superior Court got it right."

John J. Hare of Marshall Dennehey Warner Coleman & Goggin represented the defendants and declined to comment.

In October, a three-judge Superior Court panel upheld a Philadelphia jury's award of roughly $11.3 million to Dr. Noreen Lewis, the driver of the rented Toyota Sienna minivan, and roughly $4.3 million to the five passengers who rode with her. The verdict was rendered against the Center City Toyota and Ardmore Toyota dealerships, which the plaintiffs claimed did not properly inspect the van for problems.

Center City Toyota and Ardmore Toyota, referred to collectively as CCT by the court, requested a new trial, claiming the testimony of one of its expert witnesses was unfairly limited because he could not testify about the specifics of the accident.

However, Judge Anne E. Lazarus wrote in a memorandum decision that CCT's auto mechanic expert, Timothy Hilsey, was not qualified to testify on the manner in which the accident occurred.

"Hilsey was presented as an automotive mechanic, and, accordingly, the trial court qualified him only as an automotive mechanic expert. Additionally, Hilsey did not inspect the vehicle involved in the instant accident," Lazarus said. "For these reasons, the trial court found that Hilsey's testimony regarding the speed of the car, the movement the

tire made, or damage to the vehicle would have been purely speculative and outside his realm of expertise."

On March 8, 2008, Lewis was driving the van from Philadelphia to Vestal, New York, accompanied by five family members. According to the trial court's summary, Lewis heard a "jerk" and shortly thereafter the steering wheel locked and the brakes failed. The van went off the road and rolled several times down a ravine.

Lewis suffered a concussion, several fractured bones, lacerations to her face, ripped muscles, contusions to the lungs and heart, and disc and vertebrae injuries. Lewis' mother's injuries included a punctured lung and broken wrist while the other passengers suffered broken bones and back and neck pain.

Lewis sued Toyota Motor Corp. for design defects in the van and CCT for failing to maintain the van, according to Lazarus. The passengers filed a separate suit. Toyota was dismissed from the litigation after its motion for summary judgment was granted.

The plaintiffs alleged the van's steering wheel locked because of a separation from the ball joint, which occurred prior to the accident. According to Lazarus, the plaintiffs further alleged that CCT improperly inspected the vehicle roughly three months before the accident by failing to follow the instructions in the Toyota Sienna maintenance manual.

The jury rendered its verdict March 19, 2013, and was followed shortly thereafter by CCT's appeal.

In addition to asserting that Hilsey should have been able to testify as to the nature of the accident, CCT argued that he should not have been prohibited from testifying about a particular page of the van's service manual, Lazarus said.

At trial, Lazarus said, the plaintiffs used a page from the manual to show that CCT had not followed the recommended maintenance procedure to inspect the van. The page was used during redirect examination of Hilsey and CCT sought to introduce an additional page to show that the procedure was optional.

Lazarus said the trial court disallowed introduction of the additional page because it had not been mentioned and was outside the scope of the redirect examination.

"The page CCT sought to introduce indicated that the service method in the manual is 'very effective to perform repair and service' and provides warnings in the event other methods are used," Lazarus said. "Even if this page demonstrates that other procedures might exist for inspection purposes, the information does not detract from plaintiffs' argument that the manual contains the recommended procedure."

Tom Duffy

CCT also argued the trial court erroneously prevented another expert, Lee Carr, to respond to plaintiffs' mechanic expert Dennis DeWane's testimony on the van's ball joint, ruling Carr's testimony was outside the scope of his pretrial report. Lazarus said the trial court should have accepted Carr's expert testimony as "fair rebuttal."

However, "although the trial court should have permitted Carr to testify in response to DeWane's testimony, its failure to do so was harmless error. Most of the substance of Carr's proposed testimony was admitted into evidence, either through Carr's testimony, or the testimony of CCT's other experts," Lazarus said.

P.J. D'ANNUNZIO *can be contacted at 215-557-2315 or pdannunzio@alm.com. Follow him on Twitter @PJDannunzioTLI*