LAMPE v. CONTINENTAL GENERAL TIRE

Driver claims defective tires were the cause of her single-vehicle accident

PRODUCT LIABILITY
Motor Vehicles: Tire/Wheel

LOS ANGELES COUNTY SUPERIOR COURT
Lampe v. Continental General Tire Inc., No. BC173567, Downtown. Judith C. Chirlin. Jury Trial: 10 weeks. Verdict/judgment: 4/13/2001.

VERDICT/JUDGMENT: $55,362,496
Cynthia Lamp: $8,856,921 economic; $41,000,000 non-economic. Sylvia Cortez: $5,575 economic; $4,500,000 non-economic. Joseph Cortez: $1,000,000 non-economic. Jury found defendant to be 100 percent at fault, Vote: Mixed poll. Deliberations: 8 days.

TRIAL COUNSEL
Plaintiff: Brian J. Panish, Adam K. Shea, Taras Kick, Daniel O'Leary.
Defendant: Walter M. Yoka, Anthony Latiolait, Ken Moran.

FACTS/CONTENTIONS
According to plaintiff: Plaintiffs claimed that the defective tires on their vehicle caused their rollover accident. The plaintiffs were Cynthia Lampe, a 33-year-old radiographic technician; Sylvia Cortez, her 53-year-old mother and Joseph Cortez, her 57-year-old father, a professional boxing referee. The defendant was Continental General Tire Inc. This single vehicle incident, which occurred on June 26, 1996, at approximately 1:00 p.m. on the northbound Interstate 15 Freeway in San Bernardino, was caused by the left rear tread/belt separation of a General Tire Ameri-Tech ST tire on plaintiffs' 1993 Ford Taurus. The vehicle initially moved left from lane 2 into lane 1 and was heading toward a guardrail and large drop-off. Plaintiff Lampe steered toward the right, at which time vehicle spun clockwise out of control, struck an embankment and rolled onto its roof. Plaintiff Lampe was driving her parents' Ford Taurus. Her mother was a passenger. They were returning to the Cortez family home in Las Vegas after visiting friends for two days in the Los Angeles area. Plaintiffs alleged that defendant's tire was defectively manufactured and designed. More specifically, plaintiffs alleged that there was contamination, including polypropylene, between the two belts, which prevented the rubber from adhering. The contamination caused the separation to grow and ultimately led to the detachment of the top belt and tread. Plaintiffs additionally alleged that defendant's tire was defectively designed because defendant failed to utilize an appropriate skim stock and failed to incorporate feasible alternate designs, including larger belt edge insulation strips, belt wraps and nylon cap plies. Plaintiffs alleged that implementing any one of these design changes would significantly reduce the occurrence of tread/belt separations, and that a detaching tread/belt produces a drag effect on a vehicle, resulting in significantly different handling characteristics for the vehicle. Defendants contended that the tire was not defectively designed or manufactured, but, rather, failed due to a phantom impact, which occurred between 200-1500 miles prior to the failure. Defendants further contended that the tread/belt separation should not cause a vehicle to lose control, but, rather, that the loss of control was due to plaintiff Lampe's excessive and abrupt steering and hard braking.

CLAIMED IN JURIES
According to plaintiff Cynthia Lampe: C6-C7 fracture/dislocation; surgery leaving her an incomplete quadriplegic; frequent urinary tract infections; spasticity. Sylvia Cortez: Soft tissue injuries.

CLAIMED DAMAGES
According to plaintiff: $356,377 past medical; $13,508,194 future medical; $2,677,171 past and future lost earnings.

SETTLEMENT DISCUSSIONS
According to plaintiff: Demand: $131,000,000 (CCP 998). Offer: $5,000,000. Approximately three weeks into trial, defendant raised its offer to $7,000,000, but stated that no further offers would be made unless plaintiffs agreed to attend mediation. At the conclusion of evidence, defendant raised its offer to $15,000,000, then to $25,000,000. Plaintiffs responded with a demand of $65,000,000. The $25,000,000 offer was withdrawn. There were various further settlement discussions, which involved defendant taking the $25,000,000 offer off the table and then re-submitting the offer. As of the time the verdict was returned, defendant had withdrawn all offers. Plaintiffs' attorney asked the jury for approximately $110,000,000.

TRIAL EXPERTS
Plaintiff: Gary J. Fowler, Ph.D., metallurgist, Fowler Inc;, Gardena. Robert W. Johnson, economist, Robert W. Johnson &Associates, Los Altos (800) 541-7435. Anthony Sances, Ph.D., biomechanical engineer, Biomechanics Institute, Milwaukee, WI (414) 454-5406. Sandra Schneider, vocational rehabilitation consultant, Sandra Schneider & Associates, Los Angeles (310) 820-8675. Lester M. Zackler, neuropsychiatrist, Lester M. Zackler Inc., Sherman Oaks (818) 789-8495. Sharon Kawai, physiatrist, Fullerton (714) 449-3340. Steven Meyer, accident reconstructionist, Goleta. John Steinman, neurosurgeon, San Bernardino. Laurie Larson, urologist, Las Vegas, NV. Jonathan Lee, physiatrist, Loma Linda. Robert Ochs, tire design/failure analysis consultant, Atlanta, GA. Jon Crate, failure analysis consultant, Atlanta, GA. Steve Amdt, vehicle handling consultant, Phoenix, AZ.

TRIAL EXPERTS (CONTINUED)
Defendant: Gene Bruno, vocational rehabilitation consultant, Gene Bruno & Associates, Los Angeles (310) 472-8833. Thomas L. Hedge, Jr., physiatrist, Pacific Regional Spinal & Head Injury Cm System, Northridge (818) 885-8533. Ernest Z. Klein, accident reconstructionist, Collision Research & Analysis Inc., Torrance (310) 328-9090. A.Jubin Merati, W.D., economist, Merati Economic Group Inc., Beverly Hills (310) 470-6650. Thomas Dodson, tire engineer/failure analysis consultant, Akron, OH. Eddie Morant, chemical analyst, Charlotte, NC. James Rancourt, Ph.D., chemist, Richmond, VA. John T. Myers, Ill, metallurgist, Portland, OR.

EXPERTS TESTIMONY

According to plaintiff: Defense expert Eddie Morant, director of worldwide advanced technology, testified that polypropylene was used in the Mt. Vernon plant. Morant acknowledged on cross-examination that he told defendant's retained expert chemist, Dr. James Rancourt, that polypropylene was not used in the Mt. Vernon plant in 1992. Jon Crate, plaintiffs' polymer expert from Georgia Tech Research Institute, utilized a microscope connected to a video feed and projector in the courtroom to show the jury the areas of contamination on the tire carcass and detached tread. Plaintiffs' vehicle control expert, Steve Arndt, showed the jury his extensive testing on the Ford Taurus, as well as the Ford Bronco II and Ford Explorer, which demonstrated the significant effect that a detreading tread/belt has on a vehicle's controllability and handling.

COMMENTS

According to plaintiff: Plaintiff was employed as a radiographic technician in New Jersey at the time of the incident, and was earning approximately $60,000 per yea Due to her injuries, she moved to Las Vegas after discharge from the hospital, and has continued to live with her parents in Las Vegas.
Experts for both plaintiffs and defendant found polypropylene in the failed tire. Defendant took the position that the polypropylene could not have been in the tire at the time of manufacture because (a) defendant did not use polypropylene in its plant at the time of manufacture in 1992, and (b) the polypropylene was not imbedded in the peaks and valleys of the surface areas. Defendant took the position that the polypropylene contamination made its way into the tire at the accident scene or while the vehicle was in storage.
Plaintiffs rebutted this claim by using-defendant's internal documents, which showed polypropylene was used as a separating liner material in the plant, and with trial testimony from Craig Stowers, who is defendant's manager of quality assurance at the Mt. Vernon, Illinois plant where the failed tire was manufactured.

The jury found in plaintiffs' favor 12 to 0 on the manufacturing defect and negligence issues. The jury rejected 12 to 0 defendant's claim that plaintiff Lampe was comparatively negligent. The jury concluded that there was no-design defect. The jury was initially hung 8 to 4 in plaintiffs' favor on the design defect issue, but proceeded to other issues on the verdict form at the trial judge's suggestion. The jury then returned to the design defect questions, but again told the trial judge that the jury was deadlocked, but had answered all other questions on the verdict form. After further inquiry by the Trial judge, the jury deliberated for another hour and reached a verdict on the design defect issue 11 to 1. The jury concluded that defendant did not act with malice or oppression. The poll for this issue was 11 to 1.

In 1998, plaintiffs settled with Ford Motor Company for $1 million and with Desert Buick, which sold the vehicle used to the Cortez family, for $265,000. In February 1999, plaintiffs settled with Sears Roebuck & Company for $2.85 million. The insurance carrier was Liberty Mutual/Alliance. Defendant made motions for JNOV, new trial and remittitur. All motions were denied on June 1,2001 by the trial judge. Plaintiffs have filed a cost bill for approximately $395,000.