

RHODE ISLAND LAWYERS WEEKLY

JANUARY 24, 2000

VERDICTS & SETTLEMENTS

Products Liability

Faulty Braking System

Injuries alleged:

Amputation of right hand and wrist

Name of case:

Peter Garcia v. Charles Murphy d/b/a C.D. Murphy Wood Recycling & Pallet Co., Aquidneck Island Tire, Inc. d/b/a Newport Tire, and Ford Motor Company

Court/case #:

Providence County Superior Court Civil Action No. 95-0552

Tried before judge or jury:

Jury

Judge:

Melanie Thunberg

Amount of settlement:

N/A (defense verdict)

Date:

Nov. 23, 1999

Highest offer:

N/A

Attorney for plaintiff:

Withheld

Attorney for defendant:

Michael A. Fitzhugh, Sean R. Levin, Fitzhugh & Associates, Boston

Other useful information:

The plaintiff, Peter Garcia, sued Ford and the other defendants for pain and suffering caused by injuries incurred in a motor vehicle accident, which culminated in a jury trial lasting two-and-a-half weeks.

The facts of the case as alleged by the plaintiff were as follows: At about 7 a.m. on Aug. 1, 1995, Garcia was the operator of a 1977 Ford LN-600 truck, owned by co-defendant Charles Murphy. Garcia, who was working for Murphy as an independent contractor, was operating the truck when he came to the crest of an exit ramp in Portsmouth that comes straight off the highway, at a steep descent. Garcia was descending the off-ramp at a speed of 40-50 mph when he applied the brakes. He claimed that the pedal went to the floor, and although he pumped it, could not obtain any braking pressure. When he tried to make a hard left hand turn at the bottom of the ramp, the vehicle rolled over onto the passenger's side, slid to the curb and rolled over onto its back. Garcia, who was unbelted, was tossed about in the cab and sustained a crushing injury to his right hand in the rollover, which required surgical amputation above the wrist.

Investigation by the police, and subsequently by other parties' experts, indicated that a rubber brake hose had separated from one of its metal fittings and leaked fluid just prior to the accident.

The plaintiff claimed that the hose dislodged because the metal crimp connected the hose to a metal fitting had corroded and ultimately gave way under pressure created by his application of the brakes.

At the time of the accident, the 1977 LN-600 contained a hydraulic braking system with a single-chambered master cylinder. This design was standard equipment for that model year, although a dual-chamber cylinder system was available as an option.

The truck had been purchased by Murphy for \$1,000 in September of 1993. At the time, it had approximately 83,000 miles on the odometer. After purchasing the vehicle, Murphy made certain repairs, including replacement of the master cylinder and many of the steel brake lines and wheel cylinders; however, he apparently did not replace the two flexible rubber hoses in the system, including the one that allegedly failed at the connection to the right front wheel.

The plaintiff's theory as to each defendant was: (1) the accident would not have occurred if the truck had been equipped with a dual system, and that Ford was negligent, strictly liable and in breach of its warranties for designing and manufacturing a truck equipped with a single system when the "safer" dual system was available as an option; (2) Murphy failed to properly repair and maintain the truck; and (3) Newport Tire's inspector should have observed that the crimp at the right front flex line was severely corroded and that the right front flex line was compromised when he conducted his inspection six weeks before the accident date.

Newport Tire settled with the plaintiff for \$750,000 before the trial began. The plaintiff relied upon the expert testimony of John Zamparo to support his liability theories against Ford and Murphy. At the close of the plaintiff's case, Mr. Murphy moved for a directed verdict based upon the contention that the plaintiff failed to identify any standard that he should have met or exceeded when making his repairs and in maintaining the truck. The motion was granted, leaving Ford as the sole remaining defendant.

Ford's defense contended that: (1) both the single and dual brake systems were safe if properly maintained; (2) that in 1977, consumers preferred the single system because the former was easier to maintain and repair; and (3) that in 1977, there were no industry standards nor government mandates requiring that Ford equip its commercial vehicles with only dual brake systems.

The plaintiff did not introduce any statistical evidence to show that the single system was dangerous, nor that the dual system was safer in medium-size trucks in 1977. Also, the plaintiff was unable to identify a government, manufacturer, or industry standard which required that trucks similar to the LN600 only be equipped with dual systems in 1977. At the conclusion of the trial, the jury found that the truck was not unreasonably dangerous nor otherwise defective, and reported its findings to the court.