

***Romine v. Johnson Controls, Inc.*, 2014 Cal. App. LEXIS 244 (Cal. App. 2d Dist. Mar. 17, 2014)**

Consumer Expectations test is applicable to strict products liability claim regarding a driver's seat. Component parts supplier defense did not apply. Engineers are not liable under strict products theory. Fault should be apportioned among all liable parties. Evidence of full amount of plaintiff's medical bills is not prejudicial where plaintiff is awarded only the amount actually paid.

FACTS AND PROCEDURAL POSTURE

The plaintiff in this case was injured when involved in a 4-car, rear end collision while stopped at a stoplight on a freeway off ramp. Plaintiff was in the driver's seat of her Nissan Frontier pickup truck when the accident occurred. The force of the impact caused the plaintiff's seatback to collapse, plaintiff struck her head and suffered spinal injuries that rendered her a quadriplegic. Plaintiff settled her claims against the numerous entities initially named in her suit, but went to trial on a strict products liability design defect theory against the two companies involved in the manufacture of the seat: Ikeda (engineering and design) and Vintec (manufacturing).

A jury found the defendants 20% at fault, and that the plaintiff suffered \$24.7 million in damages. Judgment was entered for the plaintiff in the amount of \$4.6 million. Five issues were raised on appeal.

DISCUSSION

(1) Defendants contended that the trial court erred in permitting the plaintiff to try her claim under the consumer expectations test rather than the risk/benefit test. The defendants claimed that the consumer expectation test was improper in this case because it may not be used to evaluate the performance of the design of a single part of a multi-component vehicle and restraint system. The court of appeal disagreed, explaining that the accident was not as complex as the defendants claim, and rear-end collisions are common enough as to be within the average consumer's ordinary experience. Consumer's have an expectation as to whether a driver's seat will collapse rearward in a rear-end collision. The plaintiff provided sufficient evidence concerning her use of the product, the circumstances of the accident, and the features of the seat that were relevant to an evaluation of its safety.

(2) Defendants argued that the trial court erred in refusing to instruct the jury on the component parts supplier defense and in denying their motion for judgment notwithstanding the verdict on that issue. The appeals court found that the trial court did not err because the seat was not a component part within the meaning of the rule. The defense is meant to protect raw material and multi-use component suppliers that are not in a position to protect against injury in every conceivable use of their products. The seat was not a generic, fungible, multi-use product, but rather a separate product with a specific purpose and use.

(3) Ikeda contended that it could not be held strictly liable for a product that it designed or engineered, but did not manufacture, sell, or place in the stream of commerce. The court agreed, citing case law that engineers who do not participate in bringing a product to market are not subject to strict products liability.

(4) Defendants claimed the trial court erred in excluding evidence that would have allowed the jury to apportion fault among Nissan and two other component part manufacturers. The court agreed. Under strict products liability, all defendants in the chain of distribution are jointly and severally liable.

Comparative fault has been permitted in strict products liability cases to apportion fault between a defendant found liable under a strict products theory and another defendant found liable based on negligence. Although there is a split of authority concerning the application of Prop 51 to strict product liability cases, the court held that it does apply and the jury should have been permitted to hear evidence and apportion fault accordingly.

(5) Finally, the defendants argued that the jury's verdict was improperly inflated because the trial court erroneously admitted evidence of the full amount billed for the plaintiff's past medical care, rather than the amount that the plaintiff's medical providers were actually paid. Prior to trial, defendants moved in limine to exclude evidence of the full amount billed for plaintiff's medical care. The trial court denied that motion. The parties then stipulated that the plaintiff's medical care had been reasonable and necessary, and that the plaintiff's medical bills for past medical care totaled \$777,905. The jury awarded that amount to the plaintiff, but pursuant to further stipulation of the parties, the trial court reduced the award to \$462,608, the amount actually accepted by the plaintiff's medical providers. The court explained that the defendants were correct that the trial court erred in denying defendants' motion in limine. However, defendants failed to show that the error was prejudicial, in light of the fact that the post-verdict stipulation reduced the plaintiff's past medical care to the amount actually accepted by the medical providers.

The court reversed and remanded for a retrial on the issues of Ikeda's liability, and apportionment of fault, and affirmed Vintec's liability and the finding that the plaintiff suffered \$24.7 million in damages.