

Hyundai Secures Win in \$40 Million Product Liability Suit

A Los Angeles jury returned a complete defense verdict for Hyundai Motor America and Hyundai Motor Company on Sept. 26, following a three-week trial presided over by Judge John A. Torribio.

The action was in the Norwalk Courthouse of the California Superior Court for the County of Los Angeles. Plaintiff Jorge Romo brought suit against the Hyundai defendants in January 2015, claiming that the subject 2003 Hyundai Tiburon was defectively designed and seeking an award of \$40 million in economic and non-economic damages.

According to a release from Hyundai's defense law firm: The action arose out of a motor vehicle accident that occurred in 2013, around midnight in South Gate, California. Defendant Alfred Schaer was driving his 2003 Hyundai Tiburon with another individual in the front passenger seat and plaintiff in the right rear seat. Schaer lost control of the vehicle causing it to leave the roadway, travel off the right side of the road, impact a curb and a chain-link fence, and finally collide with a steel shipping container at over 20 miles per hour. During the accident sequence, the shipping container deformed the passenger side of the Hyundai Tiburon and fractured the windshield, passenger side windows, and backlite. When the vehicle came to rest, plaintiff discovered that he had suffered a traumatic amputation of his right upper arm, according to the release.

Plaintiff filed suit against the Hyundai defendants, alleging that the Hyundai Tiburon was defectively designed because tempered safety glass – rather than laminated glass – was used

in the side windows. Plaintiff also asserted a claim against Schaer for negligently operating the vehicle. At trial, plaintiff sought \$40 million in economic and non-economic damages.

Plaintiff offered the testimony of numerous retained experts, including an automotive engineering and glazing expert, Stephen Batzer, Ph.D., P.E., biomechanics expert, Peter Francis, Ph.D., and accident reconstruction expert, Joseph Yates. These experts offered opinions in support of plaintiff's theory that, if the Tiburon had been equipped with laminated glass instead of tempered safety glass in the side windows, the passenger-side, rear quarter window would have remained in place and prevented plaintiff's injuries. Plaintiff's automotive and mechanical engineering expert, Donald Phillips, P.E., presented a series of different litigation tests purportedly demonstrating that the properties of laminated glass were such that the use of laminated glass would have prevented plaintiff's injuries during the accident.

In response, the Hyundai defendants offered the testimony of biomechanics and glazing expert Michael Carhart, Ph.D., as well as accident reconstruction expert Jeffrey Croteau. Carhart explained that the use of tempered safety glass is a safe and appropriate design choice for automotive side windows that complied with all applicable federal and industry standards, and accordingly that the Hyundai Tiburon was not defective or unreasonably dangerous. Moreover, Croteau prepared an extensive accident reconstruction based on 3D laser scanning and modelling and Carhart prepared a surrogate study and other 3D modeling establishing that the rear quarter glass window fractured when the vehicle impacted the edge of the 40-foot, multi-ton steel shipping container, and that the use of laminated glass in the quarter window would not have prevented plaintiff's injuries. The Hyundai defendants also presented a complex sled crash test using an exemplar Hyundai Tiburon with laminated glass installed in the rear quarter

window. This crash testing, which matched the relevant interactions in the underlying crash sequence, demonstrated that the use of laminated glass would not have prevented plaintiff's injury, according to the release.

After deliberating over the course of three days, the jury found in favor of the Hyundai defendants on both the Strict Product Liability Consumer Expectation Test and Strict Product Liability Risk-Benefit Test. As to the claim for negligent operation of the vehicle, the jury returned a verdict against Schaer and awarded plaintiff a total of \$17,270,000 in economic and non-economic damages.

Plaintiff presented the following experts at trial: automotive engineering and glazing expert Stephen Batzer, Ph.D.; automotive and mechanical engineering expert Donald Phillips, P.E.; biomechanics expert Peter Francis, Ph.D.; accident reconstruction expert Joseph Yates; economist expert Catherine M. Graves, MBA, CFA; orthopedic surgery expert Frederic Nicola, M.D.; psychology expert, Anthony Reading, Ph.D.; prosthetic expert Richard Riley, B.S.Ed., C.P., FAAOP; and psychical medical and rehabilitation expert, Khyber Zaffarkhan, D.O., FAAPMR. The Hyundai Defendants presented accident reconstruction expert, Jeffrey Croteau, and biomechanics and glazing expert, Michael Carhart, Ph.D.

Plaintiff was represented by Daniel Sheldon of Scolinos, Sheldon & Nevell, and Patrick Ardis and Kip Whittemore of Wolff Ardis, P.C., based in Memphis, Tennessee.

The Hyundai defendants were represented by Gary Wolensky, Paul Alarcon, and Taylor Brown of Buchalter, as well as Hyundai Motor America's in-house counsel, Jamison Power.

Defendant Alfred Schaer was represented by David Gomes of Gomes Hirshik & Hummel.

