

# VERDICTSEARCH

## Products Liability

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ALM

### VERDICT of the MONTH

#### Aviation

**Cylinder detached  
from engine in flight,  
resulting in crash**

**\$14,967,413**

*Estate of Michelberg v. Teledyne  
Continental Motors Inc.*

Santa Clara Co., Calif., Super. Ct.

**Plaintiff Attorneys** Michael S. Danko  
and Kristine Keala Meredith, O'Reilly &  
Danko, San Mateo

**Defense Attorneys** R. Bruce Duffield  
and Shalem A. Massey, Bryan Cave LLP,  
Chicago; Douglas J. Pahl, Kern and  
Wooley, LLP, Los Angeles

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**EDITOR'S NOTE** This report is based on information provided by defense counsel. Plaintiff's counsel did not return the reporter's phone calls.

—Stephen DiPerte

## SEAT BELTS

### Design Defect — Crashworthiness — Rollover

# Defects in seat belt, roof resulted in paralyzing crash

<b>VERDICT</b>	<b>Defense</b>
<b>CASE</b>	Colby Lynn Turley v. Ford Motor Company and Jarrett-Gordon Ford Inc., No. 53-2005-CA-001708
<b>COURT JUDGE</b>	Polk County Circuit Court, FL Roger A. Alcott
<b>DATE</b>	11/24/2008
<b>PLAINTIFF ATTORNEY(S)</b>	<b>Robert Link</b> , Pajcic & Pajcic, P.A., Jacksonville, FL <b>Steve Pajcic</b> , Pajcic & Pajcic, P.A., Jacksonville, FL <b>Raymond Reid</b> , Pajcic & Pajcic, P.A., Jacksonville, FL
<b>DEFENSE ATTORNEY(S)</b>	<b>John R. Reid, Jr.</b> , Cabaniss, Smith, Toole & Wiggins, PL, Orlando, FL (Ford Motor Company) <b>Alan Thomas</b> , Huie, Fernambucq & Stewart, LLP, Birmingham, AL (Ford Motor Company)

**FACTS & ALLEGATIONS** On March 26, 2005, plaintiff Colby Turley, 20, unemployed, was driving her Ford Explorer on Interstate 75 near Fort Myers at approximately 70 mph when an unidentified vehicle ahead of her suddenly slowed. Turley swerved into the median, lost control and rolled over three times. Turley, who was wearing a seat belt, was rendered a quadriplegic.

Turley sued Ford Motor Co. for products liability, alleging design defects of the vehicle's seat belt and roof. Turley also named Jarrett-Gordon Ford Inc., the dealership, as a defendant but dismissed it prior to trial. She alleged that the Explorer's seat belt failed to prevent her from coming out of her seat during the rollover and she struck her head on the roof, which collapsed.

Turley was traveling within the speed limit. Pursuant to state law in crashworthiness cases, the negligence of the driver in causing the accident is deemed to not be relevant in the case against the vehicle manufacturer, and the jury was instructed

not to consider the driver's actions or the cause of the crash in reaching a verdict.

Turley's accident reconstruction expert testified that she veered into the median, yawed counterclockwise and tripped in the soft sand as it went down into a 5-foot deep grassy median. She was going 25 mph to 29 mph at the time the vehicle overturned. It rolled three times over a distance of 72 feet and came to rest on its wheels. The expert said the majority of the deformation occurred during the last half roll.

The plaintiff's biomechanical expert testified that the roof deformed into the occupant compartment and caused a hyperflexion injury. The seat belt design allowed Turley to move toward the roof, and her head was at or near the driver's side roof rail when that portion of the vehicle struck the ground at the 2.5 roll position, when she received her injury. Bidez testified that she believed the roof structure was defective and caused Turley's injuries.

John Stilson, the plaintiff's roof structure expert, testified that the roof structure was inadequate to meet the demands of this rollover accident and was defectively designed. Stilson testified that the roof structure was significantly weaker than that of most vehicles on the road. He opined that thicker metal, stronger metal or structural foam should have been used to strengthen the roof.

Steve Meyer, a restraint design expert for the plaintiff, testified that the seat belt design was defective for a vehicle that was known to roll over in 30 to 40 percent of single vehicle accidents. Meyer testified that Ford should have either strengthened the roof so that the belt system was not affected by roof crush or used an all-belts-to-seat design, cinching latch plates or rollover-sensitive web grabbers to keep occupants closer to the seat in a rollover.

Ford argued the Explorer's roof strength met and significantly exceeded the applicable National Highway Traffic Safety Administration's roof strength standard. Defense counsel contended that no seat belt system available in any passenger vehicle would have prevented Turley's movement off of the seat and into the roof.

Ford's accident reconstruction expert testified that Turley's vehicle veered into the median and yawed counterclockwise, causing the left side tires to dig into the sandy soil as the vehicle went down a slope into the median. The combination of the furrowing of the tires and the downslope resulted in the vehicle tripping and overturning three times, with the vehicle coming to rest on its wheels. He said the truck was going 51 mph to 63 mph when it left the roadway and between 30 mph and 35 mph when it tripped and rolled over. It underwent three rolls at a high roll rate, rotating in excess of 600 degrees per second at the start of the last roll before it struck the upslope of the median. He testified that the high-speed impact resulted in deformation of the roof structure.

Ford's roof design expert testified the Explorer significantly exceeded roof strength standard FMVSS 216 and was non-defective. Based on his research and testing, increasing the strength of motor vehicle roofs beyond the level set in FMVSS 216 does not provide an increase in safety because occupants

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can often be in contact with the roof structure when the roof strikes the ground, resulting in high loads being transmitted to the head/neck of the occupant.

Ford's biomechanical engineering expert testified that as a result of the crash forces generated by the rollover, Turley's head was in contact with the driver's side roof rail when that portion of the vehicle struck the upslope of the median at the 2.5 roll point. The impact was of sufficient velocity and duration to cause Turley's spinal injuries. Turley's head was suddenly stopped by the roof when the roof struck the ground and her torso then continued to move toward the ground, causing her cervical spine injuries. The expert added that the injuries were not caused by either the roof deformation or any problem with the seat belt, which operated properly in the crash. The expert claimed that no production seat belt system can keep most occupants from contacting various portions of the vehicle during a rollover crash.

**INJURIES/DAMAGES** *quadriplegia*

Turley was transported by helicopter to Lee Memorial Hospital, where she was treated for several months. She suffered a C5-6 fracture dislocation, which resulted in permanent quadriplegia, along with other superficial injuries. Although Turley was unemployed at the time of the accident, she had held a variety of temporary clerical positions prior to the crash. Turley's damages experts testified that she would require extensive medical and supporting care throughout her life, and that her total economic damages, including lost wages, were in excess of \$14 million.

**RESULT** The jury rendered a verdict in favor of the defendant.

**TRIAL DETAILS** Trial Length: 5 weeks  
Trial Deliberations: 3 hours  
Jury Composition: 2 male, 4 female

**PLAINTIFF  
EXPERT(S)**

**Martha Bidez, P.E.**, biomechanical,  
Birmingham, AL  
**David J. Bilek**, accident investigation &  
reconstruction/ failure analysis/product  
liability, Littleton, CO  
**Larry Foreman**, vocational rehabilitation,  
Miami, FL  
**Steve Meyer**, restraint systems, Santa  
Barbara, CA  
**Fred Raffa, Ph.D.**, economics, Orlando, FL  
**John Stilson, Ph.D.**, automobiles,  
Wildwood, IL

**DEFENSE  
EXPERT(S)**

**Thomas L. Bennett, M.D.**, forensic  
pathology  
**Jarrod W. Carter, Ph.D.**, accident  
reconstruction, Spokane, WA

**Debra R. Marth, Ph.D.**, biomechanics,  
Flat Rock, MI  
**Ken Orlowski**, car design, Detroit, MI

**EDITOR'S NOTE** This report is based on information provided by plaintiff's and defense counsel.

—Shannon Green

**MINIVAN****Design Defect****Drunk driver to blame for  
van's fire, defense argued****VERDICT** **Defense**

**CASE** Krzysztof Sobczak v. General Motors Corp.,  
No. 00L4917

**COURT** Cook County Circuit Court, IL

**JUDGE** John B. Grogan

**DATE** 9/3/2008

**PLAINTIFF**

**ATTORNEY(S)** Christopher Patrick Ford, Law Office of  
Christopher Patrick Ford, Chicago, IL

**DEFENSE**

**ATTORNEY(S)** Michael P. Cooney, Dykema Gossett PLLC,  
Detroit, MI

**Brittany M. Schultz**, Dykema Gossett PLLC,  
Bloomfield Hills, MI

**FACTS & ALLEGATIONS** On Aug. 28, 1999, plaintiff Krzysztof Sobczak, 21, a laborer, pulled his new 1999 Chevrolet Astro Van over to the side of 51st Street near Long Street in Chicago when the vehicle burst into flames. He sustained third-degree burns.

Sobczak sued General Motors Corp. for products liability, alleging a design defect. He claimed that the exhaust system had been inadequately shielded, allowing gasoline to enter it from the engine and overheat it.

According to Sobczak, he pulled over because the van began to backfire and stall. He said he tried about 10 times to restart it but he soon smelled something burning. Sobczak claimed he then entered the back of the van to investigate, and the vehicle burst into flames, trapping him inside as the door locks malfunctioned. Sobczak argued that a redesign of the van switched steel for aluminum in the muffler shield and two other exhaust shields that were present on earlier models of vans were removed from the 1999 model. Those design changes allowed the overheating to ignite combustible materials, and faulty door locks prevented him from getting out of the van.

General Motors argued that Sobczak was to blame for the fire, noting that he was under the influence of alcohol when he pulled