

Ford SUV's instability played role in crash, family alleged

February 01, 2009

Amount:	\$0	Type:	Settlement
Court:	Onondaga Supreme, NY		
Case Name:	Robert C. Shenfeld, individually and as Natural Guardian of Leah Ann Toscano Shenfeld, and Susan T. Shenfeld, individually and as Natural Guardians of Leah Ann Toscano Shenfeld, Minor v. Ford Motor Company and Senjun Chen, No. 5003/07		
Plaintiff Attorney(s):	<ul style="list-style-type: none">• David S. Grasso; Russell, Russell & Grasso, P.L.L.C.; Central Square NY for Robert Shenfeld, Susan Shenfeld, Leah Ann Shenfeld• Joseph E. Ritch; Wigington Rumley Dunn, L.L.P.; Corpus Christi TX for Robert Shenfeld, Susan Shenfeld, Leah Ann Shenfeld		
Defense Attorney(s):	<ul style="list-style-type: none">• Brian P. Crosby; Gibson, McAskill & Crosby; Buffalo, NY for Ford Motor Co.• Robert G. Scumaci; Gibson, McAskill & Crosby, LLP; Buffalo, NY for Ford Motor Co.		
Facts:	<p>On Aug. 19, 2001, plaintiff Robert C. Shenfeld was driving west in a 1998 Ford Expedition on Interstate 90 in the right lane when he was struck near the left rear wheel by a car driven by Senjun Chen. Shenfeld lost control, driving across several lanes of traffic. He became perpendicular to the roadway, skidded and ultimately rolled over. Wife plaintiff Susan T. Shenfeld, was seated in the front passenger seat and their children, Brian A. Shenfeld, 15, and plaintiff Leah A. Shenfeld, 10, were seated in the second row of seats and the third row of seats respectively. During the accident Leah was partially ejected and suffered serious injuries.</p> <p>The Shenfelds, individually and as natural guardians of their daughter sued the Ford Motor Co. for products liability, alleging that the Expedition had a design defect and was unreasonably dangerous.</p> <p>Plaintiffs' counsel contended that defects included instability and failure to utilize laminated glass. Plaintiffs' counsel argued that alternative designs existed at the time the vehicle was designed and manufactured, which would have prevented or significantly reduced the risk of injury without substantially impairing the product's utility. The alternative designs were economically and technologically feasible at the time the product left the control of Ford. Through an expressed and implied warranty to the general public and to the Shenfelds specifically, the Expedition was fit for the purposes for which it was intended, plaintiffs' counsel argued. The Shenfelds relied on these express and implied warranties. Ford's breach of warranties rendered the Expedition unreasonably dangerous and a proximate cause and producing cause of the accident, counsel opined. Plaintiff's counsel argued that the Ford's conduct was done knowingly. Its acts of omission and commission, which constituted malice and gross neglect, was a proximate cause of the injuries of Leah, the physical pain and mental anguish she suffered and the damages suffered by her parents, plaintiffs' counsel opined.</p> <p>Defense counsel contended that the accident was caused solely as a result of the negligence of the driver of the other vehicle and co-defendant Chen, who was issued two traffic citations for unsafe lane change and for speeding. The accident occurred when Chen drove into the side of the the truck while both vehicles were moving at highway speed.</p> <p>Ford claimed that Leah was injured in the accident only because she was not wearing a seat belt. Shenfeld was issued traffic citations for failing to ensure his daughter was seat-belted. Ford argued that the seat belt is the primary safety device intended to prevent occupant ejection and that its use would have prevented any enhanced injury to Leah in the accident. The three other occupants were belted and were essentially uninjured in the crash.</p> <p>Ford also argued Federal preemption because the side window glazing utilized was approved under applicable Federal standards. Ford demonstrated that the Expedition met or exceeded all applicable Federal Motor Vehicle Safety Standards and was reasonably safe and not defective.</p>		
Injury:	Leah sustained injury to her back and degloving to her scalp, right arm, bilateral anterior feet and legs. She also sustained a right foot deformity and has no active toe motion. She underwent a placement of an external fixator on her right foot and multiple skin grafts to her right upper extremity, left lower extremity and right iliac.		
Result:	Ford settled for a confidential amount.		