

Pittsburgh Jury Awards \$8.75 Mil. in Brake Failure Fatality

The Legal Intelligencer

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By Zack Needles
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(On Aug. 8, 2012, the Pennsylvania Supreme Court denied Ford Motor Co.'s petition for appeal of the Blumer verdict. The final judgment with interest was \$12.14 million.)

An Allegheny County jury has ordered Ford Motor Co. and local dealership McCrackin Ford Inc. to pay \$8.75 million to the family of a 43-year-old tow truck operator who was killed when the parking brake on his truck gave way, causing the vehicle to roll on top of him.

After a 10-day trial and four hours and 40 minutes of deliberation, the jury voted 11-1 in favor of the plaintiffs in Judge Michael A. Della Vecchia's courtroom.

In *Blumer v. Ford Motor Co.*, according to the plaintiffs' pretrial memorandum, Joseph Blumer had just finished lowering a vehicle off the back of his Ford F-350 tow truck when the parking brake broke.

The vehicle, which was necessarily in neutral gear because it had a manual transmission, rolled down the hill it had been parked on and over Blumer, who suffocated under the truck, the plaintiffs' memo said.

In their memo, plaintiffs alleged that Ford Motor Co. knew as early as July 2000 that the parking brake system, used in all of its F-series vehicles between 1999 and 2004, was faulty.

Plaintiffs' counsel [Shanin Specter](#) of Kline & Specter said there were many parallels between *Blumer* and the 2004 case *White v. Ford*, in which Specter obtained on behalf of his clients a \$52 million punitive damages award against Ford Motor Co. in federal court in Nevada after a faulty parking brake caused a Ford pickup truck to roll over and kill a young boy.

The brake in *Blumer* was the successor to the one at issue in *White*, Specter said.

Specter said he introduced 28 Ford Motor Co. reports from customers and dealers of the vehicles with the same model brake rolling away.

"Ford brake engineers testified in deposition that there were design issues with this brake," Specter said.

Specter said "everything in this case was contested" by the defendants and, as a result, six expert witnesses were brought in to testify for the plaintiff.

The defense contested in its own pretrial memorandum the claim that the brake was defective, instead alleging that Blumer negligently failed to set the parking brake and that parts of the brake had been improperly replaced by Blumer's employer prior to the accident.

According to the plaintiffs' memorandum, plaintiffs' expert Robert A. Novicelli, a trained mechanic, inspected the truck after the accident and testified that the brakes were faulty and that the brake systems in F-series trucks manufactured prior to 1999 contained a special component designed to keep the parking brake from spontaneously disengaging.

Novicelli testified that this component was missing from the 1999-2004 models.

Plaintiffs' expert Dr. Campbell Laird also testified as to the defectiveness of the brake system, saying the rollaway was caused by a "gross under-design of the controller."

The plaintiffs' memorandum said Blumer's wife, Jennette, and two children "are still struggling terribly with his passing" both emotionally and economically.

The plaintiffs' memorandum estimated the total economic losses resulting from Blumer's death at between \$333,066 and \$342,280.

A defense expert's report estimated the total economic losses at \$283,888.

The defense also brought in Dr. Jerome E. Granato to contest the testimony of plaintiffs' expert Dr. Mark J. Geller that Blumer had a normal life expectancy.

According to Granato's expert report, Blumer's health had already been in a fragile state because of a pre-existing heart condition that had been diagnosed not long before the incident.

Plaintiffs' expert Dr. Howard E. Reidbord testified that Blumer died of mechanical asphyxiation and felt one to two minutes of conscious pain and suffering, which Specter said the defense also disputed.

The jury found in favor of the plaintiff on nine out of the 10 questions on the jury slip, saying it did not feel the defendants failed to properly warn of a defect prior to selling the vehicle in question.

The panel awarded \$2.3 million to Jennette Blumer for loss of companionship, \$2.25 million to each of the Blumers' two children, \$1.5 million for Joseph Blumer's pain and suffering and \$450,000 for loss of earnings.

Specter said he was "tremendously" happy with the verdict.

"Now that we have a jury verdict we're going to be in touch with the National Highway Traffic Safety Administration to review with them the jury's findings and the 28 admitted reports of other vehicle rollaways," he said, adding that the verdict in the *White* case pressured Ford Motor Co. into recalling all of the trucks with those brakes.

"The same thing should occur here," he said.

The defendants' attorneys, Nancy R. Winschel of Dickie McCamey & Chilcote and William J. Conroy of Campbell Campbell Edwards & Conroy, could not be reached for comment at press time.