

THE LARGEST VERDICTS OF 2002

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Tire firm, Sears share blame for rollover death

CASE TYPE: products liability

CASE: *Tripp v. Sears Roebuck & Co.*, No. A000482-C (Orange Co., Texas, Dist. Ct.)

PLAINTIFFS' ATTORNEYS: Richard Mithoff, Joseph R. Alexander Jr. and Sherie Potts Beckman of Houston's Mithoff & Jacks; Paul D. Henderson of Orange, Texas' Dies, Henderson, Carona; B. Adam Terrell of Beaumont, Texas' Weller, Green, Touns & Terrell

DEFENSE ATTORNEYS: Louis A. Lehr Jr., Willa A. Fearrington and Aimee B. Storin of Chicago's Arnstein & Lehr; Edward Mattingly of Houston's Mattingly & Marsh; John Cash Smith of Houston's Mehaffy & Webber

JURY VERDICT: \$29.86 million (July 3)

78 A TEXAS JURY awarded \$29 million to the family of a man who died in a rollover accident when his Chevrolet Blazer went out of control after the tread separated on a Bridgestone/Firestone tire.

After a four-and-a-half-day trial, the jury deliberated a day and a half, ultimately assigning 65% of the blame to manufacturer Bridgestone/Firestone and 35% to Sears, which sold the tire and later repaired it.

Jurors found that Sears and Bridgestone/Firestone were negligent and agreed that the Dueler APT had design and manufacturing defects. The family of

the plaintiff had reached a confidential settlement with Bridgestone/Firestone about six months before the case went to trial.

Plaintiffs' attorney Richard Mithoff said there were several themes that persuaded the jury in their argument against Sears. The tire never should have been repaired, said Mithoff, because Sears should have been aware that a number of Dueler tires were being returned due to defects. However, it continued to sell the Dueler tire and did nothing by way of recalls. Also, it followed a cost-saving policy that encouraged employees to repair, rather than replace, tires.

The bulk of the jury's verdict was awarded to the decedent's widow, his child and his parents on claims of pecuniary loss, loss of companionship and mental anguish. Punitives were not awarded because the jury did not find that Sears had acted maliciously.

The jury was not aware of the plaintiffs' prior settlement with Bridgestone/Firestone, according to defense counsel Louis A. Lehr Jr. It was wrong in its assessment of liability, he asserted.

The judge has accepted the plaintiffs' motion for prejudgment interest, said Mithoff. Lehr said he has filed the initial briefs to appeal.