

■ SEARS TAGGED

Tire trial ends with \$29 million verdict

A Bridgestone/Firestone product is involved, but the focus is on repairs.

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A TEXAS JURY has awarded \$29 million to the family of a man who died in a rollover accident involving a Bridgestone/Firestone tire.

Jurors made the award in connection with a Chevrolet Blazer that veered off the road and flipped after the tread separated on its left rear tire. Sears Roebuck had previously repaired a puncture in the tire.

After a day-and-a-half of deliberations, the jury assigned 65% of the blame to manufacturer Bridgestone/Firestone and 35% to Sears, which sold the tire.

Jurors found that Sears and Bridgestone/Firestone were negligent and agreed that the Dueler APT had design and manufacturing defects. *Christine J. Tripp v. Sears Roebuck and Co.*, No. A00482-C (Orange Co., Texas, Dist. Ct.).

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

Several litigation attorneys said the Texas verdict and award should not be viewed as a bellwether for other tire-tread separation cases because the circumstances of the fatal accident were so unusual.

Federal officials have blamed rollover accidents involving Ford Explorers and Firestone tires for more than 200 deaths and more than 700 injuries. A recall two years ago led to the replacement of nearly 30 million of those tires.

The Dueler APT was not part of that recall, and Sears no longer sells the tire.

Sears, the country's largest tire seller, has not yet decided whether it will appeal. A spokeswoman said the verdict will have no impact on other Sears tire cases.

"We just don't feel it's going to change how we handle any litigation we have now," said Jan Drummond. "That may change six months from now. It's a really new verdict." Sears' trial attorney, Louis A. Lehr of Arnstein & Lehr in Chicago, referred questions to Drummond.

Plaintiff's attorney Richard Mithoff of Houston said he sought to lay the lion's share of the blame on Sears, which sells \$800 million worth of tires annually. He argued during the four-and-a-half-day trial that though the tire had an underlying defect, Sears bore more responsibility for its failure because the retailer had gathered data that detailed tire problems. That information should have led the retailer to replace—not just repair—the punctured tire, Mithoff said.

The Dueler APT was covered by a road-hazard warranty when a nail punctured it 15,000 to 20,000 miles before the September 2000 accident that killed 35-year-old passenger Terry Tripp. The plaintiff's experts contended that the re-

pair was done improperly—a claim defense experts rejected.

Mithoff, a partner at Mithoff & Jacks, suggested that the jury assign Sears 70% and Bridgestone/Firestone 30% of the blame for Tripp's death. The panel assessed \$17 million in punitive damages against Sears, but nothing will be awarded, Mithoff said, because the jury did not find that Sears had acted maliciously. Jurors said after the trial that they made the malice award "to send a message to Sears that they should do something" about the Dueler APT, Mithoff said.

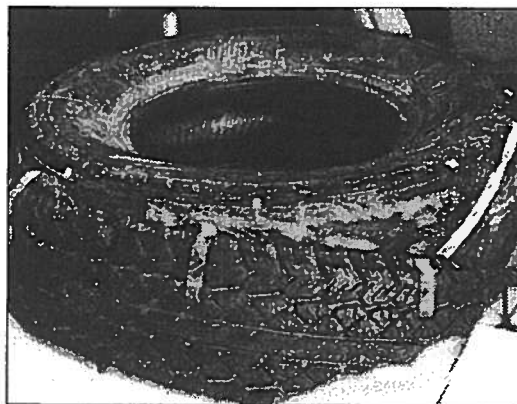
Because the tire manufacturer had settled before trial, Judge Pat Clark is expected to deduct either the amount of the settlement or 65% of the award from the \$29 million.

Mithoff said the trial introduced "a dynamic of tension between Bridgestone/Firestone and Sears" as each blamed the other for the tire's failure.

"I think it will add to that dynamic—or should add to that dynamic—in these cases," he said.

Tab Turner, a Little Rock, Ark., attorney, said the verdict won't have any bearing on three Dueler APT tread-separation cases he's filed in three states. "I'm sure somebody's got a case like it," he said, "but that case will not have a whole lot of relevance on how people value something because the issues there are so unique." Turner, of Turner & Associates, said he'll focus on design defects.

Richard M. Zielinski, who defends mass torts and products liability cases for Hill & Barlow in Boston, said: "I don't see this as a landmark, groundbreaking case that's going to change people's strategies. It's just a data point." NLJ



UNRAVELED: The Dueler APT tire was involved in a fatal accident in 2000.