

Supreme Court Summaries

Opinions filed September 22, 2011

Jablonski v. Ford Motor Co., 2011 IL 110096

Appellate citation: 398 Ill. App. 3d 222.

JUSTICE THEIS delivered the judgment of the court, with opinion. Justices Freeman, Garman, Karmeier, and Burke concurred in the judgment and opinion.

Chief Justice Kilbride and Justice Thomas took no part in the decision.

In 2003, where Illinois Route 203 intersects Interstate 270 in Madison County, the driver of a 1993 Lincoln Town Car was killed and his wife was severely burned and disfigured when they came to a stop in a construction zone and were struck from behind by a vehicle which was traveling at high speed. A large pipe wrench which was stored in the trunk penetrated the trunk wall and punctured the fuel tank, causing the car to burst into flames. A settlement was reached with the other driver, and Ford Motor Company was then sued. A theory of strict liability was originally put forward but was ultimately abandoned, and the case went to the jury on several theories of negligent product design and willful and wanton misconduct. The jury awarded over \$43 million, of which \$15 million was punitive damages, and the appellate court affirmed.

Evidence and expert testimony had been presented at trial concerning the possible locations for an automobile fuel tank in relation to the rear axle, whether in back, on top, or in front of it, and its placement vertically or horizontally. Also dealt with were the issues of the possibility of objects in the trunk penetrating the trunk wall so as to damage the fuel tank, as well as the possibility of shielding the trunk from such events, and possible alternate designs. Statistics on various types of accidents which had occurred were presented.

Ford claimed that the evidence was insufficient for the case to go to the jury. After the verdict was returned, Ford made a motion for a judgment notwithstanding the verdict, which was denied.

The supreme court clarified the proper duty analysis in this common law negligence action for a design defect and addressed the risk-utility test for determining duty. A manufacturer has a nondelegable duty to design a reasonably safe product, and the question of reasonable care is resolved by whether hazardousness could have been foreseen at the time of manufacture and whether the risks inherent in a product design outweigh the benefit or utility of the product.

The nonexhaustive list of factors relevant to this analysis is the same as that used in a strict liability case for determining whether a product is unreasonably dangerous. Ford was shown at trial to have complied with governmental and industrywide standards which were in place at the time of manufacture, and, although this is not dispositive and is only one of other factors considered in determining whether reasonable care was employed in designing the product, the supreme court applied the risk-utility test and held that the evidence was insufficient to go to the jury on the issue of negligent design.

On the theory of duty to warn, which was presented by the evidence but unpleaded, the supreme court noted that, where it cannot be said that a defect is known of or should have been

known of before a product leaves the manufacturer's control, a duty to warn of defects has never been recognized in Illinois. The supreme court declined to expand such a duty under these facts. Thus, all of the plaintiffs' theories failed. The Illinois Supreme Court reversed both the appellate and circuit courts.