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## Jury gives full defense verdict in seat belt case

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**F**ord Motor Company and a Japan-based seatbelt manufacturer secured a full defense verdict in San Bernardino County Superior Court against a plaintiff claiming that her seatbelt malfunctioned during a highway accident that left her paralyzed.

During the 10-week trial before Judge Donald L. Alvarez, plaintiff Terry Herbert claimed that she was wearing a defective seatbelt designed by Takata Corporation when she was involved in a 2012 accident on State Route 62 in San Bernardino. As a result of the accident, Herbert sustained traumatic brain injuries and paraplegia. *Herbert v. Ford Motor Company and Takata Corporation, et al.*, CIVDS1415915 (San Bernardino Super. Ct., filed Oct. 23, 2014).

James J. Yukevich of Yukevich Cavanaugh in Los Angeles represented the manufacturer.

"Cases like this are never easy for juries where the plaintiff has sustained severe injuries," Yukevich said. "Still, all of the testimonial and physical evidence in the case showed Ms. Herbert was not wearing her seat belt and that it wasn't defective."

In 2012, Herbert and three other passengers were driving back from Fort Mohave, Arizona when the

driver swerved off the road, causing the vehicle to flip three times.

Herbert, who was 58 at the time, was seated in the rear-left passenger seat and was thrown 30 feet from the vehicle. She claimed her right elbow caused her seatbelt to unlatch and that it was defective.

Scot D. Wilson, Conor M. Kelly and Henry Y. Pan, all from Robinson Calcagnie Inc. in Newport Beach, represented Herbert. In closing arguments, they asked the jury for more than \$25 million in damages.

In Herbert's complaint, plaintiff's counsel argued that "Ford and Takata knew that it would be expensive and embarrassing to admit that serious safety defect in something as simple and as important as a seat belt buckle existed, particularly given the number of vehicles that have these seat belts. Ford and Takata chose not to fix the defect."

But the defense persuaded the jury that Herbert was not wearing her seat belt during the crash.

"Only Ms. Herbert was injured in the accident," Yukevich said. "There were a number of eyewitnesses that said Ms. Herbert was not wearing her seat belt. She was tired and uncomfortable. She wanted to sleep on the way home. Seeing the facts we were faced with ... the physical evidence showed that she wasn't wearing the belt."

Yukevich said there were two ways he was able to show the jury

evidence that Herbert was not wearing her belt.

According to Yukevich, one way is called load marks — markings that appear on the outside plastic of a seat belt latch during an accident. Yukevich said experts in the trial testified that if the seat belt had been used, the marks would be clearly seen on her latch, but they were not. "The other three had clear marks," Yukevich said.

He added that another way to prove if one is wearing a seat belt that detaches during a crash is through proof of entanglement injuries, which would have been visible on the plaintiff's left arm. "She didn't have any of those," Yukevich said. "There would have been marks on her left arm and on the belt and there were none."

Ford was made a defendant as a result of manufacturing a vehicle with an allegedly deficient seat belt. Ford's attorney, Mark V. Berry of Bowman and Brooke LLP, declined to comment, and the company could not be reached on Wednesday.

Wilson said he and co-counsel are preparing post-trial motions.

"We're preparing to file a motion for new trial based on certain misconduct and certain irregularities as well as a motion for trial notwithstanding the verdict," Wilson said.

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