

Daily Journal

FEBRUARY 26, 2025

TOP VERDICTS OF 2024

Gardner v. American Honda Motor Co. Inc.

In March 2024, Yukevich Cavanaugh successfully defended American Honda Motor Corporation in a precedent-setting personal injury case involving an allegation that there was a defect in Honda's seats causing a customer to sustain paralysis. *Gardner v. American Honda Motor Co. Inc.*, 30-2020-01172206 (O.C. Super. Ct., filed Nov. 30, 2020).

In February 2020, James Gardner was operating a 2009 Honda CRV on the 91 Freeway eastbound when he was struck from behind by a 2015 Chevrolet Camaro driven by Justin Bass, who was traveling at 65 mph. Bass claimed that he did not see Gardner's vehicle stopped in traffic and did not apply his brakes. As a result of the collision, Gardner alleged that the seat in his CRV was not sufficiently strong, collapsed and caused him to become a paraplegic.

Lead trial attorney James J. Yukevich, said the jury was tasked with determining whether the seat in the CRV was defective in design. It concluded that the seat performed as safely as an ordinary consumer would expect and was not defective.

Yukevich said the case tested the limits of the Consumer Expectations Test in a complex products liability setting. Honda was restricted from presenting any testing, certification, seat strength analysis, or design considerations. They were also not allowed to inform the jury that the CRV complied with applicable Federal Motor Vehicle Safety Standards. The only testimony permitted from experts was related to causation, based on the precedent set by the case of Romine vs. Johnson Controls.

"For the first time in the last 15 years, a motor vehicle manufacturer was able to win a case alleging seat back failure without any evidence of the risks and benefits of the design," Yukevich said.

The jury was instructed to decide the issue of defect based solely on their own knowledge and life-time experiences, he said.

They were not provided with information about the seat's design, testing, or comparisons to other vehicles, Yukevich said. Additionally, the Honda engineering witness was not allowed to testify, and the defense could not offer any expert testimony regarding the



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seat's strength and safety design.

"This case placed the burden of convincing the jurors of the safety of the seat in the hands of the defense attorneys, who had to convince the jury that an ordinary consumer would expect the seat to have performed exactly as it did," Yukevich said. "The plaintiff, who was a large man, weighing over 300 pounds, coupled with the severity of the rear-end impact, permitted the defense to argue Newton's basic

laws of physics, acceleration times mass equals force, and that the force placed on the seat was so great that any consumer would expect that components of the seat would bend and break."

He also said the winning argument was that vehicles, including seats, are designed to bend and deform to absorb energy so that the occupants do not absorb that energy themselves.

"When the accident seat was compared with a non-damaged exemplar, although the seat did deform, it did not collapse," Yukevich said. "The defense also argued that the plaintiff had a condition of the spine known as DISH (Diffuse Idiopathic Skeletal Hyperostosis), and that condition caused the plaintiff's spine to fracture in two locations simply because the plaintiff's back was suddenly pushed into an upright position. The defense argued that plaintiff's injuries occurred before the seat had substantially deformed, and that the seat performed how an ordinary consumer would expect it to perform."

CASE DETAILS

CASE NAME	Gardner v. American Honda Motor Co. Inc.
TYPE OF CASE	Personal Injury
COURT	County Superior Court
JUDGE(S)	Sandy Nunes Leal
DEFENSE LAWYERS	Yukevich Cavanaugh, James J. Yukevich, Cristina M. Ciminelli
PLAINTIFF LAWYERS	Aitken Aitken Cohn, Darren Aitken

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TOP VERDICTS OF 2024

Solis v. Brake Parts Inc.

An asbestos-related lawsuit entailed a \$65 million claim for the death of Sylvia Solis, a 57-year-old woman, who allegedly contracted peritoneal mesothelioma from asbestos transferred by her husband and son.

"This was an asbestos case, where Sylvia Solis was allegedly exposed to asbestos from the automotive work her husband and son did changing brakes, clutches and gaskets on large trucks and passenger vehicles," said Yukevich Cavanaugh partner Steven D. Smelser. This lawsuit was part of the LAOSD Asbestos Action, JCCP No. 4674, and was filed on behalf of Leon Solis, his son, and two daughters.

The trial lasted three weeks. *Solis v. Brake Parts Inc.*, 20STCV41475,

(L.A. Super. Ct., filed Oct. 27, 2020.)

The jury returned a 34-question verdict in favor of the defense after just one day of deliberation.

The plaintiffs went to the jury on five causes of action: Strict liability design defect, negligence, strict liability failure to warn, negligent failure to warn, and concealment.

The plaintiffs had urged the jury to award \$65 million, including punitive damages, but Brake Parts Inc., the last of 30 defendants, was found not liable. The other defendants had settled prior to the trial.

"Mrs. Solis was diagnosed with peritoneal mesothelioma," Smelser said. "Asbestos friction cases are difficult to win without an alternative source of exposure to as-



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JAMES J. OSTERTAG

bestos and/or when claiming that the mesothelioma was not caused by asbestos at all."

He continued: "Brake Parts, Inc., through its experts, argued that Mrs. Solis' peritoneal mesothelioma was not caused by asbestos at all and that genetic replication errors led to her cancer and had

nothing to do with the limited asbestos exposure she may have had."

Smelser's colleague in the matter, James Ostertag, said the case had excellent experts that explained to the jury how Solis' cancer was not caused by exposure to asbestos.

"Furthermore, Brake Parts, Inc.'s brake boxes all contained strong warnings about how to handle asbestos-containing brakes and Leon Solis, Sr. and Jr., ignored those warnings," he said.

Yukevich Cavanaugh confirmed an appeal has been filed.

CASE DETAILS

CASE NAME	Solis v. Brake Parts Inc.
TYPE OF CASE	Personal Injury
COURT	COURT Los Angeles County Superior Court
JUDGE(S)	JUDGE(S) Mary Ann Murphy
DEFENSE LAWYERS	Yukevich Cavanaugh, Steven D. Smelser, James J. Ostertag
PLAINTIFF LAWYERS	Scott Law Firm PC, Scott L. Frost; Meiorowitz & Wasserberg, Joseph Trunk