

Daily Journal

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TOP VERDICTS OF 2017

The largest and most significant verdicts and appellate reversals in California in 2017

TOP DEFENSE VERDICTS

Herbert v. Ford Motor Company

case
INFO

Design Defect
San Bernardino County
Superior Court Judge
Donald Alvarez

Defense Lawyers:
James J. Yukevich, Michael D. Johnson, Yukevich Cavanaugh; Mark V. Berry, Bowman and Brooke LLP; Scott L. Macdonald, Macdonald & Cody LLP; Sabina A. Helton, Buchalter APC

Plaintiff's Lawyers:
Scot D. Wilson, Henry Y. Pan, Conor M. Kelly, Robinson Calcagnie Inc.



JIM YUKEVICH

A Japanese auto parts manufacturer and Ford Motor Co. secured a full defense verdict in March 2017 after a 10-week trial featuring allegations that a woman was left paralyzed in a car accident due to a defective seat belt.

James J. Yukevich of Yukevich Cavanaugh in Los Angeles was lead counsel for Takata Corp. and TK Holdings Inc. in the case tried in San Bernardino County Superior Court.

Plaintiff Terry Herbert, who suffered traumatic brain injuries, sought more than \$25 million. *Herbert v. Ford Motor Company et al.*, CIVDS1415915 (San Bernardino Super. Ct., filed Oct. 23, 2014).

Attorneys on both sides agreed that the central issue at trial was whether Herbert had been wearing a seat belt during the 2012 single-

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James J. Yukevich, Yukevich Cavanaugh

vehicle rollover on State Route 62 in San Bernardino. She was a passenger in the rear of the vehicle. “We were able to show through

cross-examination of their experts and presentation of our experts that the physical evidence from the seat belt and the car itself showed she was not belted,” said Yukevich, a founding partner at his firm. “The marks that would have been on the seat belt were not there.”

Yukevich said calling three witnesses who said they heard the three other passengers in the car with Herbert say immediately after the crash that she was not wearing a seat belt was helpful in securing the verdict.

“As I said to the jury, you can’t have a seat belt protect you unless you wear it,” he said.

Yukevich’s colleague, Michael D. Johnson, assisted at trial, as did Sabina A. Helton of Buchalter APC in Los Angeles. Mark V. Berry of Bowman and Brooke LLP represented Ford.

Scot D. Wilson, Conor M. Kelly, and Henry Y. Pan of Robinson Calcagnie Inc. in Newport Beach represented Herbert, who was 58 at the time of the crash.

Wilson said the defense did an effective job shifting the focus of the trial away from what his side claimed was a defective product to the issue of whether the plaintiff was wearing a seat belt.

“It was an emotionally charged case,” Wilson said. “The lawyers on all sides did an excellent job.”

The trial was an example, Yukevich said, of how a sharp focus on the evidence can lead to a defense verdict even in a case with a very sympathetic plaintiff.

“It is the defense’s responsibility to treat those people with absolute respect and dignity, but to give the jury the information needed so they can find the defendant was not at fault,” he said.

— Lyle Moran