

Jury Clears Kia In Liability Suit Over Sorento SUV

By **Jessica Dye**

Law360, New York (March 10, 2009, 12:00 AM ET) -- A jury has found Kia Motors America Inc. and Kia Motors Corp. not liable for \$30 million in personal and punitive damages, in a case involving safety provisions in Kia's Sorento line of SUVs.

A jury in the District Court of Oklahoma County in the state of Oklahoma returned a unanimous verdict on March 3 in favor of Kia after a 17-day trial in which the plaintiff, Mary Boren, argued that the vehicle's defective and failed safety technologies were at fault in a 2005 accident in which she sustained injuries that eventually left her a quadriplegic.

Doug Robinson of Shook Hardy & Bacon LLP, who represented Kia, said this was the first product liability case involving the Sorento line.

In the complaint, Boren said she was driving a 2003 Kia Sorento LX at highway speed when the car hit a slippery patch, entered into a broadside skid and rolled over off the roadway. She sustained injuries that resulted in quadriplegia and filed a suit against Kia in 2006.

Boren's complaint argued that Kia had breached its implied warranty of fitness and "committed acts of negligence," according to court documents. She asked for damages in excess of \$30 million, including a \$13 million life insurance policy and \$3 million for past medical bills.

Boren alleged that the car's roof strength was not sufficient to protect passengers in case of a rollover, and the rollover-activated seat belts did not function as intended, in addition to other failed rollover-protection measures, including protective windows, interior padding and side air curtains.

Boren also blamed a faulty electronic stability control system. The Federal Motor Vehicle Safety Standard No. 126 was recently adopted by the National Highway Traffic Safety Administration to set federal standards governing the design and function of ESCs in all passenger vehicles weighing 10,000 pounds or less.

Robinson said that, to his knowledge, this was one of the first times a car's ESC was disputed in a product liability suit. However, FMVSS 126 was passed in October 2007 and took effect in 2008, making it a moot point in this particular case.

Nevertheless, during the trial, "electronic stability control was a big issue," Robinson said.

“From our perspective, it was our first trial with Kia, and we were very impressed with their legal team providing us insights in court and support,” Robinson said.

Representatives for Boren did not immediately respond with a comment.

Kia is represented in this case by Shook Hardy & Bacon LLP.

Boren is represented by Merritt & Associates PC.

The case is Mary Elaine Boren v. Kia Motors America Inc. et al., case number CJ-2005-2869, in the District Court of Oklahoma County, State of Oklahoma.

All Content © 2003-2015, Portfolio Media, Inc.