

plaintiff -- A person who brings a legal action, such as a lawsuit. In *Moseley v. General Motors*, the plaintiffs were Tom and Elaine Moseley; the defendant was General Motors.

punitive damages -- Money awarded by a court to a person that is intended to punish the defendant and prevent that person or business from repeating the conduct. Punitive damages are also awarded in order to warn others of the consequences of the action. The punitive damages in the Moseley case were \$101 million.

Things to Think About

- Suppose GM engineers were asked to defend their development of the "side saddle" fuel tank? What do you think their response would be?

¥The award of \$101 million in the Moseley case was one of the largest ever recorded. Do you think this was excessive? Or do you think that \$20 per truck, which is how it breaks down, was reasonable? Was such a large judgment necessary to warn others of the dangers of the trucks?

- Whether or not you agree with the jury's verdict in the Moseley case, do you think such large monetary awards encourage people to bring lawsuits, some of which may be unwarranted, even frivolous, in the hopes of getting rich? Should there be a limit to the amount of punitive damages?

- Despite the controversy over the "side saddle" fuel tanks, General Motors never issued a recall of the trucks using them, and the U.S. government never forced them to. Do you think a recall should have occurred or is the evidence that the fuel tank system was dangerous inadequate? What powers do you think the U.S. government should have to get defective or dangerous products off the market?

- By the time that Shannon Moseley was killed, GM had stopped manufacturing pickup trucks with "side saddle" fuel tanks. Yet even after the trial, it's almost certain that many people who purchased used GM pickup trucks with "side saddle" fuel tanks were unaware of the Moseley case. What does this tell you about the need to investigate motor vehicles that you are thinking of buying? How can buyers of used vehicles find out about potential problems or controversies involving their purchases? Can you find out if there are resources that keep track of these issues? Should companies that have been found to produce defective or unsafe products be required to place notices in the newspapers and announcements on radio and television?

- GM engineer Michael Juras testified during the trial that he had no hesitation allowing members of his family to drive the pickup trucks in question. What does this tell you about the sincerity of his belief in their safety? If you were a juror in the case, how would this testimony affect your verdict? Why would you either accept or reject it?

Internet Resources

<http://washburnlaw.edu/facstaff/lars/coursmat/pretrpro/gm.htm> -- The text of a very useful and detailed article on the Moseley case from the April 1993 issue of *The American*

Lawyer. An excellent description of the trial.

<http://www.nhtsa.dot.gov/> -- The Web site of the National Highway Traffic Safety Administration.

http://www.freep.com/business/gmfire7_20000107.htm -- A useful, detailed story on the controversy over General Motors and fuel-tank fires with links to other stories on the case, including a profile of James Butler, the Moseleys' chief counsel.

<http://www.atlanet.org/cjfacts/other/gm%5Ffuel.ht> -- From the American Trial Lawyers Association, a brief but useful summary of the case.

<http://www-tech.mit.edu/V113/N3/gm.03w.html> --

AWashington Post story entitled "Jury Finds GM Negligent in Fuel Tank Case."

<http://walterolson.com/articles/gmtrucks.html> -- The text of a Wall Street Journal article arguing GM's side of the case.

<http://www.sjblaw.com/news/vol2no2.html> -- From a law firm newsletter, a brief survey of other cases involving GM pickup trucks.

<http://www.cnn.com/US/9508/auto/lawsuits/09-12/-A> story from CNN describing GM's settlement of the Moseley case.

<http://www.citizen.org/congress/civjus/legalmyths/smokguns.htm>

-- From the consumer group Public Citizen, an article entitled "Smoking Guns: Corporate Behavior and the Harmful Impact of Capping Punitive Damages in Product Liability Cases," with further information on the Moseley case.

Other Resources

Birsch, Douglas and Fielder, John H., eds., *The Ford Pinto Case*. State University of New York Press, 1994.

Crandall, Robert W. *Regulating the Automobile*.

Brookings Institution, 1986.

Gard, S. Richard, Jr., ed. *Side Impact: Highlights from Moseley v. General Motors*. American Lawyer Media, 1993.

Jasper, Margaret C. *The Law of Product Liability*.

Oceana Publications, 1996.

Maynard, Micheline. *Collision Course: Inside the Battle for General Motors*. Carol Publishing Group, 1995.

Nader, Ralph. *Unsafe at Any Speed*, 1965

Stapleton, Jane. *Product Liability*. Butterworths, 1994.

Wysner, John. *Every Purse and Purpose: General Motors and the Automotive Business*. Wilderness Adventure Books, 1994.

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LANDMARK CONSUMER RIGHTS TRIALS

When we purchase a product or use a service, we have the right to expect that what we buy is safe. And yet defective products and harmful services are common; indeed, most of the cases in the courts today arise out of just such occurrences. And sometimes lawsuits over products and services result in cases that grip the public in a major way. These cases may attract attention because of the huge numbers of people involved, the novel areas of modern life they reflect, or simply the large amounts of money involved. LANDMARK CONSUMER RIGHTS TRIALS examines some of these unforgettable cases.

AUTOMOBILE SAFETY MOSELEY v. GENERAL MOTORS

Safe Design or "Rolling Firebomb?"

According to U.S. law, anyone who manufactures a product for public use is liable for any harm caused by defective or careless manufacture, and the person who is injured is entitled to compensation. Considering the vast numbers of automobiles on U.S. roads, it's no surprise that automobile manufacturers are often the targets of lawsuits charging unsafe equipment. One of the most famous, for example, involved the Ford Pinto, a small car that Ford manufactured from 1971 to 1980. The unsafe gas tank design and Ford's slowness in changing it became the subject of enormous controversy, and Ford was even charged in a criminal trial.



Another widely publicized automobile safety dispute involved a line of General Motors pickup trucks introduced in the fall of 1972. These vehicles were equipped with what were called "side saddle" fuel tanks: two large tanks located outside the frame. General Motors has steadfastly contended that the design was safe; others, however, (most notably the Center for Auto Safety) have charged that they these trucks were (and are) "rolling firebombs," and they have claimed that more than 750 people have died in fiery crashes involving these vehicles.

More than 300 accident victims or their survivors have sued over the alleged defect in the GM pickups. Only eight cases have gone to trial, with GM winning five and losing three. The Center for Auto Safety, however, has estimated that GM has paid out \$500 million to settle other claims, always on the condition that the settlements are confidential.

One single case, however, was paramount in bringing the "side saddle" fuel tank dispute into prominence. That was the death in Georgia in 1989 of a robust and promising 17-year-old high-school student named Shannon Moseley. His parents' lawsuit against GM became one of the most closely watched cases in U.S. automotive history.

The Issue: Dangerous Vehicles or Too Many Lawsuits?—

According to the U.S. government, every year more than 40,000 Americans are killed in motor vehicle crashes and millions are injured. It's estimated that these accidents cost Americans over \$150 billion in property loss, medical and emergency bills, productivity loss, and so on. The reasons are various and many: reckless, or drunken, or unskilled drivers; dangerous weather conditions; unsafe highways and defective automobiles. Some people would argue that the last of these reasons is one of the most prominent and the most avoidable. Corporations, they argue, in their quest to maximize profits, cut corners that lead to dangerous vehicles. Corporations, on the other hand, defend their safety testing practices and point to a culture that is much too quick to turn to lawsuits when unfortunate occurrences, such as deadly accidents, happen. The case of Moseley v. General Motors brought these issues to the fore in a way that few other recent cases have.

Important People

Bartlit, Fred -- An accomplished Chicago trial lawyer, he represents GM in the trial.

Butler, James -- The head lawyer representing the Moseleys.

Chealey, Robert -- The Moseleys' co-counsel. He questions Wayne Ross (see below) about the speed of the crash.

Dale, John -- Juror in Moseley v. General Motors. The press interviews him after the verdict.

Elwell, Ronald -- GM engineer who testifies in the trial. His testimony that he was shocked by the results of the pickup truck crash tests is crucial to the plaintiffs' case.

Gennarelli, Thomas -- University of Pennsylvania neurologist. His testimony that Shannon Moseley died from a head injury supports General Motors in the trial.

TIMELINE

1973 -- General Motors begins manufacturing the pickup trucks that become the focus of the Moseley case.

1983 -- Robert Elwell (see Important People) visits GM's safety research facility, where crash tests on GM pickup trucks are conducted.

1987 -- General Motors stops making the trucks that are the focus of the Moseley case. The following year it puts a new pickup truck on the market, one in which the fuel tank is located inside the frame.

October 21, 1989 -- Shannon Moseley is killed in a fiery accident while driving his GM pickup truck.

February 1990 -- The Moseleys initiate their lawsuit against GM.

November 1991 -- The Moseleys' counsel takes a deposition from former GM engineer Theodore Kashmerick (see Important People), who is near death.

December 1992 -- The National Highway Traffic Safety Administration (NHTSA) requests an investigation into GM pickup trucks with the possibility of initiating a recall.

December 10, 1992 -- Fred Bartlit (see Important People) enters the case.

January 11, 1993 -- Opening statements begin in the trial.

January 20, 1993 -- The videotaped testimony of Theodore Kashmerick is presented in court.

January 27, 1993 -- GM engineer Michael Juras (see Important People) testifies that the trucks, in his opinion, are safe.

February 4, 1993 -- The jury reaches its verdict in Moseley v. General Motors.

April 1993 -- NHTSA asks GM to conduct a voluntary recall of its pickup trucks. GM formally declines.

June 1994 -- The \$105.2 million judgment against GM is reversed.

October 1994 -- The U.S. Secretary of Transportation determines that a recall of GM pickup trucks is in order. GM fends off the recall by suing to prevent a federal hearing on the trucks' safety. It then reaches a settlement by pledging large contributions to vehicle safety programs.

September 12, 1995 -- GM comes to a settlement in the Moseley case. The amount is not disclosed.

September 19, 1995 -- A Wayne County, Michigan, circuit judge throws out a lawsuit against GM concerning the side-saddle fuel tanks. The plaintiffs said they learned of the dangers of the fuel tank design from the Shannon Moseley case. The judge concluded that plaintiffs had not determined why the trucks' design presented such a high degree of risk.

Haberstad, John -- Accident expert whose testimony bolsters GM's contention that Shannon Moseley died from a head injury and not from fire.

Higgins, Bruce -- Police officer who is first on the Moseley accident scene. He testifies that he heard screams, which indicates that Shannon Moseley was not dead before he burned.

Juras, Michael -- GM's chief pickup truck engineer. He testifies that he is convinced that the trucks are safe.

Kashmerick, Theodore -- Engineer who oversaw the design of the fuel system in GM's pickup trucks. Although he has died before the trial, his previously videotaped testimony is important to the plaintiffs.

Moseley, Elaine -- Shannon Moseley's mother.

Moseley, Shannon -- The 17-year-old driver of the pickup truck who is killed in a crash in 1989 and whose death becomes the basis of the trial.

Moseley, Tom -- Shannon Moseley's father.

Ross, Wayne -- Medical examiner who examined Shannon Moseley's body. His testimony bolsters the argument that Moseley died from fire.

Rowan, Otis -- Chairman of the jury in Moseley v. General Motors.

Ruprecht, David -- The driver of the vehicle that crashed into Shannon Moseley's truck.

Stempel, Robert -- Former chairman of General Motors. His testimony, which maintains the safety of the pickup trucks, is an indication of how seriously GM considers the case.

Thompson, A.L. -- The presiding judge in Moseley v. General Motors.

Vocabulary

closed-head injury -- A traumatic brain injury in which the skull has not been fractured. Such injuries are sometimes not properly diagnosed.

compensatory damages -- Money awarded by a court to a person in order to reimburse costs such as medical bills and lost wages. Compensatory damages are also awarded for pain and suffering. The compensatory damages in the Moseley case were \$4.2 million.

diffuse axonal injury -- One of the most common types of primary lesions in patients with severe head injury. It is a severe type of injury that can occur without deformation of the skull. The defense in Moseley v. General Motors argued that Shannon Moseley suffered just such an injury, which explained why his head injury went undetected during the autopsy and why he didn't die from fire, as the plaintiffs contended.

National Highway Traffic Safety Administration -- A division of the U.S. Department of Transportation that was established in 1970. It is responsible for reducing deaths, injuries, and economic losses resulting from motor vehicle crashes and it does this partly by setting and enforcing safety performance standards for motor vehicles and by investigating safety defects.