

UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

Kim v. American Honda Motor Company, Incorporated

No. 22-40790, United States Court of Appeals for the Fifth Circuit (November 7, 2023)

SUMMARY

In a Texas products liability design defect case arising from a far-side impact injury in a side-impact collision, the Fifth Circuit affirmed a jury verdict against Honda. The court held that the district court did not abuse its discretion in admitting plaintiffs' expert testimony under Daubert, and that sufficient evidence supported the jury's finding that a center airbag or reverse geometry seatbelt was a safer alternative design. The court also held that the Texas presumption of nonliability (Tex. Civ. Prac. & Rem. Code § 82.008) was inapplicable because no federal safety standard governed the specific product risk—"the risk of injury from a far-side impact during a near-side collision"—which was a question of law for the court, not the jury.

CASE DETAILS

COURT	United States Court of Appeals for the Fifth Circuit
WRITING FOR THE COURT	Patrick E. Higginbotham; Jerry E. Smith; Jennifer Walker Elrod
JURISDICTION	Federal
DECIDED	November 7, 2023
DOCKET	22-40790
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from the United States District Court for the Eastern District of Texas, USDC No. 4:19-CV-332, after a jury trial and final judgment.
STANDARD OF REVIEW	Admission of expert testimony is reviewed for abuse of discretion; denial of JMOL is reviewed de novo; jury instruction errors are reviewed for abuse of discretion, but questions of statutory construction are reviewed de novo.
PRECEDENTIAL VALUE	Published
PARTIES	American Honda Motor Company, Incorporated v. Su Min Kim; Ji Hun Kim

TOPICS

- torts
- personal injury
- evidence
- civil procedure
- appellate procedure

PRACTICE AREAS

Torts

Product Liability

QUESTIONS PRESENTED

1. Whether the district court abused its discretion in denying Honda's motions to exclude the expert testimony of Dr. Mariusz Ziejewski and Neil Hannemann.
2. Whether the district court erred in denying Honda's motion for judgment as a matter of law on the ground that there was insufficient evidence of a safer alternative design.
3. Whether the district court erred in defining the product risk as 'the risk of injury from a far-side impact during a near-side collision' and denying Honda's requested jury instruction on the Texas statutory presumption of nonliability under Texas Civil Practice and Remedies Code § 82.008.

HOLDINGS

1. No, the district court did not abuse its discretion. The experts' testimony was reliable and relevant, and Honda's challenges went to the weight, not admissibility.
2. No, there was sufficient evidence for the jury to find that both a center airbag and a reverse geometry seatbelt were safer alternative designs that were economically and technologically feasible.
3. No, the district court properly defined the product risk as 'the risk of injury from a far-side impact during a near-side collision' and correctly concluded that no federal standard governed that risk, so the presumption was inapplicable.

KEY QUOTATIONS

"TEX. CIV. PRAC. & REM. CODE ANN. § 82.008(a): 'In a products liability action brought against a product manufacturer or seller, there is a rebuttable presumption that the product manufacturer or seller is not liable for any injury to a claimant caused by some aspect of the formulation, labeling, or design of a product if the product manufacturer or seller establishes that the product's formula, labeling, or design complied with mandatory safety standards or regulations adopted and promulgated by the federal government, or an agency of the federal government, that were applicable to the product at the time of manufacture and that governed the product risk that allegedly caused harm.'" (at 22-23)

"TEX. CIV. PRAC. & REM. CODE § 82.005(b): 'a product design other than the one actually used that in reasonable probability: (1) would have prevented or significantly reduced the risk of the claimant's personal injury, property damage, or death without substantially impairing the product's utility; and (2) was economically and technologically feasible at the time the product left the control of the manufacturer or seller by the application of existing or reasonably achievable scientific knowledge.'" (at 15)

"Sims v. Kia Motors of America, Inc., 839 F.3d 393, 406 (5th Cir. 2016): 'The burden is minimal: plaintiffs need only offer some evidence that their alternative design . . . would not have introduced other dangers of equal or greater magnitude.'" (at 15)

FACTUAL BACKGROUND

On June 30, 2018, Ji Hun Kim was driving a 2014 Honda CR-V with his sister Su Min in the front passenger seat. Another driver ran a red light and T-boned the passenger side of the CR-V. Ji Hun suffered a minor concussion, but Su Min sustained serious permanent brain and skull injuries. The injury was a far-side impact injury: Ji Hun slipped out of his shoulder belt and his head struck Su Min's head. The plaintiffs alleged that the CR-V was defectively designed because it lacked a center airbag or reverse geometry seatbelt that would have prevented or reduced the risk of head-to-head contact. The jury found Honda liable and awarded over \$21 million in damages, which the district court reduced based on apportionment of fault to the other driver.

PROCEDURAL HISTORY

The Kims filed a product liability design defect lawsuit against Honda. After a jury trial, the jury found Honda liable and awarded damages. The district court entered final judgment. Honda appealed, challenging the district court's denial of its motions to exclude expert testimony, denial of its motion for judgment as a matter of law, and denial of its requested jury instruction on the Texas statutory presumption of nonliability.

DISPOSITION

affirmed

CASES CITED

- Daubert v. Merrell Dow Pharms., Inc., 509 U.S. 579 (1993)
- Hodges v. Mack Trucks, Inc., 474 F.3d 188 (5th Cir. 2006)
- Bear Ranch, L.L.C. v. Heartbrand Beef, Inc., 885 F.3d 794 (5th Cir. 2018)
- Knight v. Kirby Inland Marine, Inc., 482 F.3d 347 (5th Cir. 2007)
- Janvey v. Dillon Gage, Inc. of Dallas, 856 F.3d 377 (5th Cir. 2017)
- Abraham v. Alpha Chi Omega, 708 F.3d 614 (5th Cir. 2013)
- Baisden v. I'm Ready Prods., Inc., 693 F.3d 491 (5th Cir. 2012)
- Threlkeld v. Total Petroleum, Inc., 211 F.3d 887 (5th Cir. 2000)
- Goodner v. Hyundai Motor Co., Ltd., 650 F.3d 1034 (5th Cir. 2011)
- Price v. Marathon Cheese Corp., 119 F.3d 330 (5th Cir. 1997)
- St. Martin v. Mobil Expl. & Producing U.S., Inc., 224 F.3d 402 (5th Cir. 2000)
- Atlantic Specialty Ins. Co. v. Porter, Inc., 742 F. App'x 850 (5th Cir. 2002)
- Casey v. Toyota Motor Engineering & Manufacturing North America, Inc., 770 F.3d 322 (5th Cir. 2014)
- Sims v. Kia Motors of America, Inc., 839 F.3d 393 (5th Cir. 2016)
- Caterpillar, Inc. v. Shears, 911 S.W.2d 379 (Tex. 1995)
- Timpte Indus., Inc. v. Gish, 286 S.W.3d 306 (Tex. 2009)
- Kia Motors Corp. v. Ruiz, 432 S.W.3d 865 (Tex. 2014)
- Wright v. Ford Motor Co., 508 F.3d 263 (5th Cir. 2007)
- Trenado v. Cooper Tire & Rubber Co., 465 F. App'x 375 (5th Cir. 2012)
- Hamid v. Lexus, 369 S.W.3d 291 (Tex. App.—Houston [1st Dist.] 2011, no pet.)

- American Honda Motor Co. v. Milburn, No. 05-19-0850-CV, 2021 WL 5504887 (Tex. App.—Dallas Nov. 24, 2021, pet. granted) (mem. op.)
- Hinson v. Dorel Juvenile Group, Inc., No. 2:15-CV-713-JRG-RSP, 2016 WL 3361480 (E.D. Tex. June 9, 2016)
- Ramos v. Stellantis North American, No. 2:21-CV-00099, 2022 WL 3595140 (S.D. Tex. Aug. 2, 2022)

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