

Daily Journal



Los Angeles, California 90054

Tuesday, December 2, 1980

210 South Spring Street,

Record Award for Wrongful Death, Emotional Distress

By GAIL DIANE COX

The manufacturer and distributor of an 8-inch steering wheel have lost a \$4.2 million lawsuit brought by a San Fernando Valley woman who saw a car modified with the wheel kill her daughter.

Opposing attorneys say they believe the award, which is compensatory damages only, is the largest ever for wrongful death of an offspring and for emotional distress.

Following a six-week trial in Van Nuys Superior Court, a jury of six men and six women deliberated a day and a half before stating that Georgia Duerr, 58, is entitled to \$2.5 million for the death of her adult daughter, \$1.5 million for the anguish she suffered in witnessing the killing of her daughter and a friend, and \$200,000 for physical injuries she herself sustained in the accident.

Comparative Fault

Co-defendants in the case were the uninsured driver of the car, Peter Madrid, as well as the driver of a second car that was pursuing Madrid at the time of the accident, Robert De la Cruz. Also named, and apparently bearing the brunt of the award, is the insured manufacturer of the under-sized wheel, Aeroceanic Corp., and a firm that markets a kit for adapting the wheel to street-driven cars, Superior Industries.

The jury found the wheel a "substantial factor" in the 1975 accident, dividing the blame 55 percent to Madrid, 35 percent to Aeroceanic, and 10 percent to Superior.

Plaintiff's attorney Lawrence Grassini told The Daily Journal Monday that under comparative fault case law set in the *American Motorcycle* case (20 Cal 3d 578), he expects to collect the full award from the two companies.

"I suppose I could impound Madrid's 1964 Chevy, but I think I'll pass," said Grassini, noting that Madrid never appeared at the trial. "He served a little time for manslaughter and his criminal attorney showed up at the trial, but for all intents, he's out of the picture."

Grassini said that while he is happy with the award and pleased for his client, he is particularly warmed by the thought that the verdict may dent the popularity of the customized steering wheels.

"We didn't go for punitive damages.... But now manufacturers, and there are a lot of them, have been placed on notice," Grassini said.

Hit and Run

Georgia Duerr, a floral designer, and her daughter, 29-year-old Victoria Lotti, had returned to their old neighborhood in the city of San Fernando on Aug. 20, 1975. They were visiting with a former neighbor, Edith Sorrell, in Sorrell's front yard when Madrid careened around the corner.

The young man had been drinking and was fleeing the scene of an earlier accident where he had hit a car belonging to De la Cruz, who was in pursuit. Madrid's Chevrolet was equipped with the small steering wheel and in making the left turn onto Sorrell's street the car went out of control.

As the car came over the curb, Duerr leaped aside, and Sorrell and Lotti were struck. Both were dragged into an adjoining yard, where the car stopped.

"I don't know whether they were pronounced dead there or at the hospital," said Grassini. "But it was awful and Mrs. Duerr saw it all."

"Only Child"

Grassini said that his client, a widow, testified on the stand that her life revolved around her daughter.

"Victoria was her only child and unmar-

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\$4.2 Million

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ried. They lived together," said Grassini. "The closeness of their relationship can be seen in the fact that this trip together was how they chose to spend a day off."

Although he told the jury the accident had permanently scarred Duerr, he did not argue she suffered traumatic neurosis. Instead the complaint alleged infliction of emotional distress under *Dillon v. Legg*, 68 Cal 2d 728, 1968.

To assist in this tack, plaintiff presented the expert testimony of a forensic psychiatrist, Franklin Drucker.

Simulated Crashes

The experts who received the most attention, however, were engineers who tested a number of 1964 Chevrolets bought by both sides.

Corey Gray, an independent consulting engineer, testified for the plaintiff. After

driving a similar, customized car over Madrid's route, Gray said he believed the small, slick-surfaced steering wheel had caused "hand confusion" when Madrid tried to negotiate a 90-degree turn.

Among those who tried unsuccessfully to refute Gray was a former race car driver, Paul O'Shea, testifying for the defense. According to O'Shea, the fatal turn could have been made without any hand-over-hand movements.

A second engineer who testified for the defense, Ray Jablonsky, drove a customized car hundreds of miles before reportedly proclaiming the steering wheel safe for street use.

Prior Knowledge?

At one point, who had manufactured Madrid's steering wheel was in dispute. The plaintiff called as a witness a veteran design engineer employed by co-defendant Superior Industries, and he testified that the positioning of spokes tied the wheel to Aeroceanic.

Aeroceanic's president, Raymond Salmon, said on the stand that the wheels were made for rail dragsters and speed boats, and he had not known they were being installed on street vehicles.

But plaintiffs brought in from British Columbia a former vice president of the company, and he testified otherwise.

Round One

Aeroceanic's attorney, D. Michael Lyden, said in a telephone interview that Grassini "shouldn't consider himself victorious until he has the money in hand."

Lyden said that later this week he plans to file a 100-page motion for a new trial, alleging numerous errors of law occurred in the courtroom of trial judge Jacqueline Weiss. "All we've lost is round one," insisted Lyden.

While declining to go into those alleged errors, Lyden said he felt insufficient attention has been given to the fact that Madrid was drunk at the time of the accident.

"A low-rider with a blood alcohol reading of .21 is fleeing a hit and run and he can't make a turn and it's the steering wheel's fault? Come on," said Lyden, adding that Madrid had an open bottle of wine in the car with him.

At the same time, Lyden did not pretend to be totally optimistic. "I'd say if you had a monetary interest in either one of those companies, you'd better postpone buying any new cars or houses or vacations."

There is some dispute about the current status of both Aeroceanic Corp. and Superior Industries. "They have both continued to register as businesses, but they haven't done business as such since 1975," says Lyden.

Maintains Grassini, "Aeroceanic has moved from Northridge to East Los Angeles, where they're doing business under another name."