

The Herald

Jury: GM must pay boy's family \$33 million

Broward youngster perished in car fire

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In a bizarre end to a tedious six-month trial, a Broward County jury Monday awarded \$33 million to the family of a Pembroke Pines boy killed in a General Motors car fire – then waited outside to hug the survivors and explain themselves to lawyers.

If it survives on appeal, it would be among the largest wrongful death awards in General Motors' 90-year history.

And it could telegraph trouble in dozens of other suits against the automaker, lawyers for other plaintiffs say. Long-concealed documents revealed in the case suggest GM may have condoned what the judge called and "out-and-out lie"

All that meant little to the McGees – parents Constance and Robert and sister Kelly, 18 – who left the Hollywood courtroom Monday grateful that the death of Shane McGee was not forgotten.

"This was never about money, not for any of us," said Constance McGee, 52. "It was about making sure Shane is remembered, and now I think he will be".

"I hope it makes a difference," said Robert. "Nothing can change what happened to our son...but if this just

saves one family from having to go through what we've gone through, then it will make a difference."

The McGees have their own burn scars from the July 13, 1991, accident outside Norfolk, Va., when a runaway trailer rear-ended their 1983 Oldsmobile Cutlass wagon and punctured the fuel tank. The Oldsmobile burst into flames.

Unless the case is settled out of court, appeals could hold up any payoff for years.

It was a fluke, GM said

GM attorneys spent millions defending allegations the company ignored warnings about an unsafe fuel tank in its station wagons. They argued the accident that killed Shane McGee was a fluke, and that the fuel tank on any car in any fleet would have been punctured under the same circumstances.

"We're confident the appellate courts will agree with us that this is a safe car," said GM attorney James Feeney.

The jury – five women and one man – did not. Through 78 days of testimony during six months, they watched hours and hours of crash test videos, inspected a dozen gas tank designs, and became experts about the underbelly of automobiles.

“Fortunately, this didn’t happen over and over again – thank God for that,” jury forewoman Cynthia Erickson told GM attorney Feeny during an impromptu discussion in the hallway after the trial. “But we just felt they had ample opportunity to address what was wrong with the car.”

Total award: \$60 million

The jury set total damages due to the McGees at \$60 million, but held GM responsible for only 55 percent. The driver of the other car, not a party to the suit, was held responsible for the rest.

McGee lawyers Robert W. Kelley and Sheldon Schlesinger argued that engineers warned GM of potential fuel tank problems and the auto giant chose not to correct them. As part of their case, they used a 1973 internal memo written by rookie engineer Edward Ivey in which he suggested repairing the fuel tank wasn’t cost-effective because “each fatality has a value of \$200,000.”

For years, GM lawyers have discounted the memo, saying it was written without authority and did not reflect GM policy.

But during the McGee trial, Broward Circuit Judge Arthur Franza ordered new documents released that suggest otherwise. One such document suggests Ivey wrote the memo at the behest of GM management and circulated it to GM officials.

“The real story out of the McGee case is that the truth has finally come out about the Ivey report,” said Jim Butler, an Atlanta attorney behind the two largest jury awards ever against GM. “It’s of tremendous significance in all GM cases.”

Jurors said Monday they weren’t swayed by the Ivey testimony, and

refused to award punitive damages against GM. The entire \$33 million was to compensate the McGees, not punish GM.

“We just thought the tank was a little low,” said juror Christina Kreisman-Fairhurst, of Coral Springs. “There wasn’t enough evidence there to prove they did anything intentional.”

Jurors stick around

After Judge Franza read the verdict, the six jurors told him they wanted to stay and talk with the McGees and the attorneys.

The six – who endured swarming termites, illness, even a death in one of the juror’s family during the 5½-month trial – were all smiles and hugs as attorneys asked them their impressions and favorite witnesses.

Jurors joked about one day when they saw attorney Bob Kelley without his wedding ring.

“We thought there might be trouble at home,” one juror told him, laughing. “But the next day your wife showed up and we knew everything was OK.”

The jokes stopped when the McGees came out of the courtroom.

“Thank you guys so much,” said Constance McGee, weeping as she stepped through the door and into the embrace of the jury forewoman. “Thank you.”

OTHER VERDICTS

Monday's \$33 million damage award isn't the largest verdict against an automaker. Other awards include:

\$250 million – Against Chrysler in September 1997 in a South Carolina case of a 5-year-old boy who was killed when thrown from a minivan with a faulty rear door latch. Chrysler is appealing.

\$150 million – Against General Motors in the 1996 Alabama case of a Chevrolet Blazer door latch that failed when the truck rolled over. The driver was paralyzed. Rather than appeal, GM settled for an undisclosed lesser amount.

\$128.5 million – Against Ford in the 1978 California case of a 13-year-old boy severely burned in a Pinto gas-tank explosion. Later reduced to \$26 million. Ford recalled all Pintos from 1971 through 1976.

\$105.2 million – Against GM in the 1993 trial of a Georgia teenager killed in a fiery 1989 pickup crash. One of dozens of truck fire cases led to pressure on GM to recall some 4.7 million pickups. The award was thrown out on appeal and parties later settled for an undisclosed amount.