

GM CALCULATED LIFE VS. COST AUTOMAKER VALUED MONEY MORE, WITNESS TELLS LIABILITY TRIAL JURY

By NOREEN MARCUS Staff Writer

Broward County jurors in a long-running product liability trial learned that in 1973, General Motors weighed auto production costs against human lives.

Money won out, a GM engineer-turned-whistleblower testified.

Ronald Elwell took the stand in the Hollywood satellite courthouse this week for the family of Shane McGee, a Pembroke Pines teen-ager who died after a freakish car fire on a Virginia expressway. Four McGee relatives suffered burns, and a fifth, a 21-year-old woman, also died after the 1991 accident in a 1983 Oldsmobile Cutlass Cruiser station wagon.

The case is significant because if the McGees succeed, it could spawn a new era of product liability litigation against GM. The company has paid out hundreds of millions of dollars in connection with a discontinued line of pickups with side-mounted fuel tanks that were prone to explode.

Miami-Dade County schoolteachers Constance and Robert McGee, Shane's parents, want punitive damages from GM for what they say is wrongdoing similar to manslaughter. They claim the giant automaker knowingly installed a puncture-prone fuel tank in hundreds of thousands of

cars because when management ran the numbers, it was cheaper to risk a small percentage of deaths than to install gas-tank shields.

Fuel from the Cutlass' gas tank, which was punctured by a cargo trailer that broke off its hitch and rammed the idling car, fed the fast-moving fire. It killed 13-year-old Shane and burned the parents and their 11-year-old daughter, Kelly. Robert McGee's cousin Jane Renze also was seriously burned and her niece, Nancy Hawthorne, died later from her injuries.

GM says in court papers its product was safe and the fire was a freak accident for which it should not be held responsible.

"General Motors will provide overwhelming evidence that the fuel tank was well-designed and met or exceeded all safety standards and guidelines," court documents say.

Whistle-blower Elwell, an expert on vehicle fires who worked for GM from 1959 to 1989, testified in GM's defense while with the company and has been testifying against it ever since he left.

He has been especially effective in the GM pickups cases. One case in Georgia resulted in a \$105.2 million

verdict before it was settled for an undisclosed sum.

“Elwell’s tracks are everywhere” in GM product liability litigation, said Clarence Ditlow, director of the Center for Auto Safety in Washington, D.C. The consumer safety organization tracks auto cases.

Citing a deal they struck when Elwell left the company, GM fought Elwell’s participation in Missouri case all the way to the U.S. Supreme Court. The company lost on Jan. 13, clearing the way for Elwell’s testimony in the McGee trial.

The 1973 internal GM memo Elwell read and discussed on the witness stand on Thursday has been called the case’s “smoking gun” by Robert Kelley, the lawyer who represents the McGees with Sheldon Schlesinger. Written by Edward Ivey, a GM designer, the memo appeared on Elwell’s desk_ one in a sheaf of papers in an anonymous, plain brown wrapper from Oldsmobile corporate offices_ in 1981, he said.

Titled “value analysis of auto fuel-fed fire-related fatalities,” the memo calculated fire fatalities per year as costing GM roughly \$2.40 per automobile.

The memo goes on to say “it would be worth approximately \$2.20 per new model auto to prevent a fuel-fed fire in all accidents.”

It makes no recommendation and ends with a disclaimer: “It’s really impossible to put a value to human life. This analysis tried to do so in an objective manner but a human fatality is really beyond value, subjectively.”

Elwell testified the company based product decisions on such calculations. He said when he asked Jack Ridenour, and Oldsmobile safety official, how much it would cost to

install gas-tank shields, “(unread.) \$4.50 would be more than enough, and he said there’s not enough money in the product to do that.”

After Elwell went over the Ivey memo, Kelley, the McGees’ lawyer, asked him how a value analyst would weigh the \$4.50-per-shield cost against the numbers in the memo.

“It was not economically to the advantage of GM to step up to that shield, and that’s what Mr. Ridenour told me,” Elwell responded.

GM lawyers, who will get their turn to cross-examine Elwell next week, put up a vigorous fight against allowing the Ivey memo into evidence. They said the memo is irrelevant because it does not address the kind of car that figured in the accident.

But Broward Circuit Judge Arthur Franza let the McGees use the memo. “If it hurts, it hurts,” he said during pretrial proceedings on Dec. 4. “If it’s the truth, it’s the truth.”

Franza said the jury will decide how relevant the memo is to the case. The trial, now in its 10th week, is expected to last another month.