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Honda Hit With \$55 Mil. Verdict In Case Over Crashworthiness

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Of the Legal Staff

A Philadelphia jury awarded \$55.3 million to a man who was paralyzed when his head struck the roof of his 1999 Acura Integra as it rolled after a tire blew out.

An examination of PaLaw magazine, an annual review of the legal profession in Pennsylvania, indicates this is the largest reported verdict in a Pennsylvania crashworthiness case since the magazine began tracking data in 1994.

According to the verdict sheet, the jury found that plaintiff Carlos Martinez's injury was caused by the Integra's defective seat-belt design and that defendant American Honda Motor Co. was negligent for failing both to redesign the seat belt and to warn consumers that they were at risk for hitting their heads on the roof if the vehicle rolled.

The verdict in *Martinez v. American Honda Motor* came down in Philadelphia Court of Common Pleas Judge Shelley



EISENBERG

Robins New's attorney, Stewart J. Eisenberg of Eisenberg Rothweiler Winkler Eisenberg & Jeck in Philadelphia.

According to the verdict sheet, the jury awarded \$25 million to Martinez for past and future non-economic damages, \$15 million to his wife, plaintiff Rosa De Los Santos De Martinez, for loss of consortium, about \$14.6 million for future medical expenses and about \$720,000 for past and future lost earnings.

According to the plaintiffs' pre-trial memorandum, Carlos Martinez was rendered quadriplegic when the tire on his Acura struck a nail, blew a tire and rolled while he was driving in Maryland in May 2010.

While Honda blamed Martinez's own negligence in its own pre-trial memorandum, saying his injuries

“were caused by the extreme forces involved in the vehicle veering off the highway, impacting a ditch and then rolling over multiple times,” the plaintiffs' memorandum said Martinez was traveling at less than 33 miles per hour when his car started to roll over.

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The plaintiffs' accident reconstruction expert, Micky Gilbert, said Martinez was driving below the 55 mph posted speed limit when he ran over a nail he could not have seen and reacted “in an expected manner by trying to turn the vehicle back to the left,” according to the plaintiffs' memorandum.

Following an assessment of the 1999 Integra's design and multiple vehicle inspections, the plaintiffs' **automotive design expert, Larry Sicher**, found that “the restraint system and overall design of the subject vehicle was defective and unreasonably dangerous, and provided no protection to Mr. Martinez, even though the crash was low-speed,” according to the plaintiffs' memorandum.

The plaintiffs' **biomechanical**

engineering expert, Brian Benda, reached a similar conclusion, the plaintiffs' memorandum said.

"The only reason Mr. Martinez sustained catastrophic and paralyzing injuries was because the defective design of the subject vehicle failed to keep him, a seat-belted occupant, from loading his neck during the rollover event, resulting in serious damage to his spine," the plaintiffs' memorandum said.

Eisenberg, who tried the case with Eisenberg Rothweiler associate Daniel J. Sherry Jr., said he argued at trial that the seat belt should have been attached to the seat, rather than one of the "pillars" separating the vehicle's windows.

Honda, meanwhile, argued in its memorandum that there was "no alternative seat-belt design that would have prevented or reduced" Martinez's injuries.

Eisenberg said he also argued at trial that Honda had performed rollover tests for the 1999 Integra in which the crash-test dummy repeatedly hit its head on the roof, but never corrected the problem before bringing the vehicle to market.

According to the jury sheet, the jury found that the Integra's driver's side seat-belt was "defective in its design and that there was an alternative, safer practicable design."

The jury also found that the Integra was defective because of Honda's failure to warn and that those defects were "solely attributable to the impact that occurred

when the roof of the car hit the ground," according to the jury sheet.

Eisenberg said that, during deliberation, the jury asked the court to see a copy of the owner's manual.

The jury also inquired as to whether there were any guidelines or precedence for awarding noneconomic damages and whether Honda would be able to appeal the award, according to Eisenberg.

"We were gratified that the jury found Honda should have redesigned their seat belt system when they knew there was a risk of head or spinal cord injury during a rollover," Eisenberg said. "The clients are very grateful that [Martinez] will now have the ability to get care for the rest of his life."

The plaintiffs' medical expert, Dr. Guy Fried, said Martinez's injuries were "serious and permanent" but that he is expected to have a normal or nearly normal lifespan, according to the plaintiffs' memorandum.

According to the plaintiffs' memorandum, Martinez has had multiple urinary tract infections and gastroesophageal reflux disease since the accident.

Martinez also continues to suffer from chronic weakness, numbness, pain, spasticity, neurogenic bowel and neurogenic bladder as a result of his paralysis, the plaintiffs' memorandum said.

The plaintiffs' life care plan expert, Lorraine E. Buchanan, estimated Martinez's future life care costs, without factoring in inflation,

at about \$10.8 million, according to the plaintiffs' memorandum.

The plaintiffs' economic expert, David Hopkins, then adjusted that figure to about \$14.6 million after inflation was accounted for.

Hopkins also estimated Martinez's future lost earnings at between about \$460,000 and \$990,000 depending on whether Martinez retired at age 62 or age 70, the plaintiffs' memorandum said.

Counsel for Honda, Christopher G. Mavros of Campbell Campbell Edwards & Conroy in Berwyn, Pa., could not be reached for comment at press time.

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