When Compliance May Not Be Enough: Takeaways From a $462 Million Missouri Verdict

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A Missouri jury recently entered a $462 million product liability verdict against trailer manufacturer Wabash National Corporation. The 2019 underride accident occurred when the driver, with a blood alcohol level over the legal limit, collided with the rear impact guard of a stopped trailer at a speed of 40–55 miles per hour. The driver and his passenger died in the accident.

Plaintiffs alleged that the trailer's rear impact guard, which was allegedly intended to prevent underride accidents, failed to adequately protect the decedents; that for decades, trailer manufacturers allegedly conspired to lobby against stricter safety regulations; and that Wabash allegedly decided against adopting more substantial rear impact guards, prioritizing the cost to the company over public safety.

The primary purpose of a rear impact guard is to reduce the likelihood of death or serious injury when a vehicle collides with the rear end of a trailer—they are neither intended nor able to prevent all potential underride accidents, much less an accident like the one that occurred here. Regardless, the plaintiffs' arguments appear to have resonated with the jury, which awarded $450 million in punitive damages on $12 million in compensatory damages. This verdict, believed to be the largest ever arising out of an underride accident, is the result of the unique circumstances presented and peculiarities of Missouri law.

Unlike Illinois, Missouri does not have a statute of repose on product liability claims, so the plaintiffs were able to bring these claims even though the trailer at issue was sold 15 years before the accident. As a result, it appears the application of comparative fault was limited. The court found that in the product liability context, comparative fault does not include circumstances where driver error, which results in unintentional misuse, is foreseeable. In such cases the nature of the error is irrelevant. Therefore, evidence that the driver was intoxicated and neither he nor his passenger wore seat belts was excluded. We expect that the court's rulings on the issue of evidence of comparative fault will be appealed.

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Wabash argued that because the trailer's rear impact guard complied with applicable federal standards and no rear impact guard could have prevented the deaths under the circumstances, there should have been no liability. However, the court allowed testimony regarding other potential rear underride guards Wabash could have implemented, and the jury found that Wabash's compliance with the applicable federal standards insufficient in light of these alternatives. The jury's disregard of the applicable federal standards no doubt fueled the punitive damages award.

This case is expected to give rise to copycat cases across the nation, therefore trailer manufacturers and trucking companies should be aware to get ahead of the potential for evidentiary issues such as those that transpired in this case. It highlights the importance of being prepared for plaintiffs' attorneys tactics and the attempts to pursue an ever-increasing scope of discovery in cases. Moreover, it underscores the need to engage in motion practice early and often to address these types of issues.

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