

Major Win for Consumer Class in Toyota Case

Posted by Steve Berman on Oct. 14, 2011

Our case against Toyota, which alleges that the auto giant knew about a defect that causes sudden, unintended acceleration but did not take action immediately to protect consumers, is progressing toward a series of trials.

U.S. District Judge James Selna recently set a date for three bellwether trials in July, 2013 and ordered that Toyota's motion and discovery practice should be limited to the states of those trials. Toyota's lawyers were visibly upset at the judge's decisions.

These bellwether trials will test some of the typical claims and help the parties determine how future cases might be resolved. In this case, the test case will involve a class comprised of Toyota consumers from California and two other states.

Toyota also asked the Court to brief motions to dismiss cases in over 30 other states. Judge Selna observed that just deciding the California motion to dismiss (largely denied) was a complex task and he was not going to devote massive resources to this task. He noted he would rather focus on managing the case toward trial. You could hear the cash flow watcher at Alston & Bird, a firm Toyota has hired to defend them, moan as they lost the opportunity to bill tens of thousands of hours on preparing the motions.

The same is true for depositions of plaintiffs. Toyota vigorously demanded that due process required that Toyota be allowed to depose over 250 plaintiffs. Imagine the billing frenzy on that project. Judge Selna rejected Toyota's request, noting that Toyota had made no showing of the need for such blunderbuss discovery.

In an ironic twist, Toyota sought to justify the depositions by claiming fact sheets submitted by 80 plaintiffs were false. Each fact sheet indicated the consumer saw Toyota advertising about safety prior to buying a Toyota. Of course they did – Toyota spends billions a year on such advertisements – so that people see them.

But Toyota's lawyers want to contest that and want to prove those billions are poorly spent – consumers don't really see the advertisements.

Not only are Toyota's lawyers claiming Toyota is wasting billions on advertising, but by calling into question the fact sheets, they are now calling the plaintiffs – who bought their product – liars.

Is this the Toyota way? I think not but perhaps the company's leadership in Japan doesn't know what the U.S. lawyers are doing.

Bottom line – these rulings are good for the good guys.

