



# Ankin Law Office LLC

Protecting the Rights of Injured Workers

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## Stimpson v. Ford: Judge Orders New Trial Based on Ford's Misconduct at Trial

August 31st, 2011 by Admin - CO



A circuit court judge in Florida recently set aside a jury verdict in favor of Ford Motor Co., finding that Ford's misconduct had amounted to "a fundamental error" that deprived plaintiffs of a fair trial and justified a new trial. The lawsuit alleged that plaintiffs' Aerostar van suddenly accelerated during gear engagement and traveled more than 100 feet before hitting a utility pole, causing disabling injuries to plaintiff Peggy Stimpson. Plaintiffs asserted liability by Ford based on strict liability, negligence and punitive damages for fraudulent concealment of a defect. Ford denied the allegations and, following a four-week trial, the jury returned a verdict in Ford's favor.

Plaintiffs appealed the decision, arguing requesting that the court vacate the judgment and order a new trial. At the heart of the plaintiffs' appeal was whether or not Ford had repeatedly used fraudulent tactics to conceal the truth about risks associated with electromagnetic interference with the cruise control function of vehicle, which has caused numerous injuries and deaths.

**Judge Swigert's opinion** harshly criticized Ford Motor Co. and found that that there was "clear and convincing evidence" that Ford had engaged in fraud, misrepresentation and other misconduct that justified setting aside the jury's verdict in favor of Ford and issuing a new verdict in favor of the Plaintiffs. Specifically, Judge Swigert found that Ford Motor Co. had engaged in the following misconduct:

- (1) Ford had destroyed Service Investigation Reports within one year even though they were required by federal law to retain the reports for 5 years and had concealed years of research and evidence dating back to the 1970s that indicated a possible electromagnetic interference problem that could cause sudden acceleration - information which, if disclosed, would have allowed the federal government to become aware of the electronic defects with the cruise control function that can cause sudden acceleration problem sooner.

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(2) Ford made false claims regarding its knowledge of the electronic defect and knew that the 1989 National Highway Traffic Safety Administration (NHTSA) report was based on false information.

(3) Despite its request to exclude testimony from an expert witness of the plaintiffs, Ford introduced the testimony on cross-examination and insinuated that plaintiffs' counsel had concealed certain information.

(4) Ford had generally presented false and misleading testimony to the jury.

Judge Swigert also reprimanded Ford's attorney for insinuating that plaintiffs' lawyer had concealed information by excluding the testimony of one of plaintiffs' expert witnesses, despite the fact that both parties had agreed to exclude this testimony at trial.

Judge Swigert ultimately found that Ford was liable for plaintiffs' injuries and damages and that a new trial should be ordered to determine the amount of compensatory damages and whether (and to what extent) Ford should be ordered to pay punitive damages. In reaching his decision, Judge Swigert stated that Ford's "acts of misconduct, individually and collectively, constitute[d] a calculated plan to interfere with the judicial system's ability to adjudicate a matter by improperly influencing the jury."

Judge Swigert also found justification for a new trial because the jury's verdict was contrary to "the manifest weight of the evidence."

### ***Impact on Toyota Sudden Acceleration Lawsuits***

As we [previously reported](#), hundreds of [product liability lawsuits](#) have been brought against Toyota based on its sudden acceleration problems, many of which were consolidated into two federal lawsuits in 2009. These lawsuits accuse Toyota of (like Ford's conduct in the *Stimpson* case) knowing about the sudden acceleration problem and of, not only failing to report the problems, but also going to great lengths to hide the defect. Judge Swigert's findings of fraud, misrepresentations, concealment of evidence and other misconduct could potentially make it easier for plaintiffs in the Toyota litigation to prove Toyota's liability with respect to [sudden acceleration defects](#).

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