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Kia's Own "OSIs" Snag Them On Appeal

A Texas appeals court refused to overturn Kia Motors Corp.'s portion of a \$4.4 million product liability judgment, ruling that a defective airbag in a Kia Spectra had led to the plaintiff's death in a 2002 head-on collision.

Andrea Ruiz was fatally injured by a blow to the head when a pick-up truck crashed into her Kia Spectra and the driver's side airbag failed to deploy.



Kia Motors and Kia Motors America Inc. challenged the judgment from the 95th Judicial District Court in Dallas, claiming it should not be held liable for the airbag's failure because the vehicle complied with government standards for "crashworthiness." Judge Martin Richter ruled that the jury had been right in finding that the driver of the pick-up had caused the collision and that Kia had negligently designed the Spectra.

The jury awarded \$1.9 million in actual damages - \$887,400 of which were to come from Kia - and \$2.5 million in exemplary damages.

Kia had also argued that a deployed airbag would not have saved Ruiz's life because the accident "was so severe it was not survivable on the driver's side, and the steering wheel was shoved inboard so far that Ms. Ruiz would have missed the airbag."

Lawrence Ruiz, who sued on behalf of the estate of Andrea Ruiz, claimed that a defective wiring harness in the airbag module created an open circuit that kept the car's computer from properly communicating with the driver's side airbag upon collision.

Data from the car's black box computer showed it had sensed the collision and signaled to deploy all of the airbags, but the driver's side airbag had malfunctioned, showing an error code "56," which indicates an open circuit.

Experts for both parties told the jury that the industry standard for a safety device like an airbag is to limit failures to one per million. Kia's corporate representative, Michelle Cameron, testified during the trial that before the date of the accident, the company had responded to 63 warranty claims involving open circuits in the driver's airbag system for the 190,073 Spectras sold in the U.S. - 331.4 failures per million.

At the trial, Kia argued that the Spectra complied with the Federal Motor Vehicle Safety Standards. **The justices affirmed the trial court's ruling that the standards were limited to general performance standards, and not related to the risk that an airbag would fail to deploy.**

"The testimony at trial established that Kia complied with [the standards], but it did not establish that [the standards] governed the product risk that allegedly caused the harm," the appeals court said.

Kia claimed the trial court had been wrong to allow the plaintiffs' expert airbag witness to demonstrate the existence of a safer alternative airbag design by presenting a wiring harness from a 2002 Volkswagen Golf and one for a 2002 Cadillac. The company claimed the evidence had not been produced in a timely manner, but the court disagreed.

Kia also claimed that a spreadsheet it produced summarizing warranty claims for problems with an open circuit in Spectras should not have been admitted as evidence either, because it was full of hearsay from customers and technicians.

The appeals court ruled that the hearsay exception did not apply because a Kia spokeswoman had verified the 67 failures represented in the spreadsheet.

Kia obviously thinks that it is valuable to file an appeal, regardless of the merits of their claims.

Subject Vehicle: 2002 Kia Spectra; Defective component part: driver's side airbag. Passenger-side frontal airbag deployed, but driver's-side frontal airbag did not; Death caused by two dislocated vertebrae in Mrs. Ruiz's (driver) neck due to severe front-to-back movement of her head.

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Jury found: (1) Tomlin (impacting vehicle driver) negligently caused the collision; (2) Kia negligently designed the Spectra; (3) Larry Ruiz (husband) was not negligent; (4) Kia was grossly negligent; and (5) responsibility should be apportioned 55% to Tomlin and 45% to Kia.

Plaintiffs' airbag expert, Geoffrey Mahon.

The case is [Kia Motors Corp. and Kia Motors America Inc. v. Lawrence Ruiz et al.](#), case number 05-10-00198-CV, in the Court of Appeals for the Fifth District of Texas. [Click here to get the Opinion.](#)

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