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\$18.9M awarded in crash

Wal-Mart judged liable in accident from blown tire that killed 3 in car

By **KRISTI TOUSIGNANT**

Kristi.Tousignant@TheDailyRecord.com

A Prince George's County Circuit Court jury assessed damages of \$18.9 million against Wal-Mart Stores Inc. for putting a new tire on an eroded rim — an action that led to the death of a woman and her two children.

The three were part of a group of eight who were returning from California in a minivan when its left rear tire went flat in Iowa. After a new tire was mounted on the rim, the family drove about eight hours before the rim failed in Indiana, killing Lindora Cornejo Calderon of Hyattsville and her two children.

The personal representative of the three estates, in addition to three other people who were injured in the crash, sued Wal-Mart and the car's driver for negligence. The jury last week found the driver not liable.

"The case was hard-fought both on liability and damages," said the plaintiffs' lawyer, Matthew P. Maloney of Maloney Law Office LLC in Kensington. "The plaintiffs are very pleased with jury's verdict."

Randy Hargrove, a spokesman for Wal-Mart, said the company is considering its options for an appeal.

"Clearly, this was a sad and tragic accident," Hargrove said. "We extend our deepest sympathy to the families who lost loved ones and to those who were injured. We appreciate the service of the jury members, however, we do not believe the facts support the decision. For example, we have safeguards in

place for the tire lube and express services we provide that includes checking for corrosion when mounting a tire."

An attorney for Wal-Mart, Warren D. Stephens of Decaro, Doran, Siciliano, Gallagher & DeBlasis LLP in Bowie, declined to comment.

According to Maloney, Calderon and her children were traveling with their father, Rudy Orellana Vega; a neighbor, Silvia Villanueva, who is the named plaintiff in the case; the driver, Elias O. Serpas Juarez, who was an acquaintance; and two other family members.

The group had traveled to California to visit Calderon's two sons from a previous marriage. The car was returning on Nov. 7, 2009, when the tire went flat.

A good Samaritan stopped and agreed to take the driver and the car's rim to the Wal-Mart in Creston, Iowa, where mechanics installed a new tire on the eroded rim, Maloney said.

"There are training materials and industry standards saying, 'Don't put new tires on a rusted rim,' and, negligently, they did that," Maloney said.

The group was headed east on Interstate 80 in Indiana when the driver swerved to avoid debris in the road. The rim failed and the tire deflated, causing him to lose control of the minivan, which rolled over multiple times.

Vega lost his right leg below the knee and suffered a brain injury. Villanueva suffered severe injuries to her right hand in the crash. The other survivors suffered more minor injuries, Maloney said.

The suit was filed in Prince George's County Circuit Court on Nov. 4, 2011, and went to trial Jan. 7 before Judge John Paul Davey. The trial lasted nine days.

Since the minivan had been scrapped before the plaintiffs retained counsel in the case, Maloney used photos taken by police and family members after the accident. Maloney said he also had an expert

VILLANUEVA V. WAL-MART STORES INC. AND ELIAS O. SERPAS JUAREZ

Court: Prince George's County Circuit Court

Case No.: CAL11-29444

Judge: John Paul Davey

Outcome: A jury awarded \$18.9 million to the plaintiffs.

Dates:

Suit filed: Nov. 4, 2011

Settlement: Jan. 23, 2013

Plaintiffs' Attorney: Matthew P. Maloney of Maloney Law Office LLC in Kensington.

Defendant's Attorney: Warren D. Stephens of Decaro, Doran, Siciliano, Gallagher & DeBlasis LLP in Bowie.

Count: Negligence

analyze a GPS from the van that provided second-by-second information on the car's location, angle and speed.

"Wal-Mart contended that because the minivan and the tire and the rim were not available, the case should not go forward," Maloney said. "We disagreed."

Maloney plans to argue in post-trial motions that since he applied Iowa substantive law to the wrongful-death claims and Indiana substantive law to the personal injury claims, the award of non-economic damages should remain intact because those states do not cap damages. The jury awarded the plaintiffs about \$17 million in non-economic damages.

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