

Judicial Restraints

Seat Belts And The Law

One of the lesser-known but nevertheless significant figures in automotive history is E.J. Claghorn, who in 1885 received the first patent for a restraining belt to protect passengers in road vehicles. Although lap-type seat belts began to be used in aircraft early in this century, it was apparently not until the early 1950s that automobile seat belts began to be manufactured. Ford was reportedly the first auto manufacturer to offer seat belts as an option. By 1964, all new American cars had belts in the front seats, and by 1966 all had them in the back as well.

Given the safety benefits of seat belts, many states have enacted laws requiring their use. These statutes typically exempt cars beyond a certain vintage. For example, New York exempts cars dating from 1964 or earlier; New Jersey excludes passenger automobiles manufactured before July 1, 1966.

In accident cases where belts were available in a vehicle, some defendants have asserted the so-called "seat belt defense," which argues that the failure of a motorist or passenger to use them constituted contributory negligence, affecting the ability to recover damages for injuries sustained in an accident. Not all states recognize that defense, and the modern trend is to prohibit or limit the use of evidence of failure to comply with seat belt laws in civil trials. Nevertheless, some states adhere to the idea that failure to use seat belts may be offered at trial as evidence of negligence. A minority of states allows such facts to be admitted to reduce the amount of damages to be awarded.

A recent case examining the "seat belt defense" in the context of an old car was *Smith vs. Butterick*, decided on August 9, 2000, by the Court of Appeal of Florida.

According to the Court, Erica Butterick was injured in an accident while riding in a 1979 Mustang driven by her brother Michael. She sued Stephanie and Jerry Smith, the owner and the driver of the other vehicle. The trial court excluded evidence the Smiths offered to support the seat belt defense. The jury found Jerry and Michael equally negligent and responsible. The trial court entered a judgment in Erica's favor and denied the Smiths' motion for a new trial. The Smiths appealed.

The Court of Appeal reversed the ruling, ordered a new trial, finding that the lower court erred in excluding evidence supporting the seat belt defense.

The appellate court noted that, in Florida, "[t]he 'seat belt defense' poses a question of comparative negligence; that is, whether the plaintiff's failure to use a seat belt contributed to her injuries....[T]he defendant must prove that (1) the plain-

tiff failed to use 'an available and fully operational seatbelt'; (2) the non-use was unreasonable under the circumstances; and (3) this failure caused or contributed substantially to the plaintiff's damages."

"[T]o show that seat belts were 'available and fully operational'...the defendant meets this initial burden simply by offering evidence that the car was equipped with belts that could have been used. Such constitutes a prima facie showing that the seat belts were operational. The plaintiff can then present rebuttal evidence to establish that the belts did not work....Before the trial court entered its order granting the motion in limine, and before the defense case at trial, Butterick's brothers testified that the Mustang contained seat belts and that they worked. Thus, there was a prima facie showing that the belts were operational, the first hurdle for a defendant to overcome in presenting a seat belt defense."

Before trial, "[t]he Smiths...filed an affidavit of a mechanical engineer, Julian S. Nowak, who reported that he had computed how far forward a restrained passenger would move in a 1979 Mustang involved in an accident like the one in this case. He stated that the head of a restrained passenger would not have hit the interior surfaces of the car. In the accident at issue here, Butterick suffered a broken nose when her head struck something inside the Mustang."

At trial, "[t]he Smiths also proffered Nowak's opinion that the physical evidence showed Butterick was not wearing a seat belt and that she would not have injured her face if she had been restrained....Although we offer no opinion on the likelihood the Smiths will succeed on this defense, we conclude that their evidence was sufficient to raise a jury question....The trial court erred in excluding it."

"The retrial should be limited to the issue of whether Erica Butterick failed to wear an 'available and fully operational' seat belt, and, if so, whether she was comparatively negligent and what percentage of fault should be attributed to her."

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Retrofit seat belts are available for cars dating before their manufacturers offered belts. For example, Andover Automotive in Columbia, Maryland, (www.andoauto.com/antisb.htm; (410) 381-6700) markets units they claim give the appearance of a correct period seat belt.



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