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Sunday, December 19, 2004



DaimlerChrysler AG

The Sparkmans' 1998 Dodge Grand Caravan, right, was struck from behind by a speeding Ford pickup truck. The truck overrode the van's bumper, crumpling the back end of the vehicle.

Trial puts spotlight on safety of car seats

\$106 million judgment against Chrysler and new safety studies intensify the debate over federal standards.

By Jeff Plungis / Detroit News Washington Bureau

WASHINGTON -- A massive jury verdict against DaimlerChrysler and some new studies have placed a spotlight on a little-debated safety issue - how well seats protect occupants when a vehicle is struck from behind.

A Nashville jury ruled last month that the design of a front seat in a 1998 Dodge Grand Caravan that collapsed was partly responsible for the death of 8-month-old Joshua Flax.

Even though the minivan was rear-ended by a speeding pickup, the jury slapped DaimlerChrysler with \$98 million in punitive damages in a \$105.5 million verdict.

DaimlerChrysler is appealing, and most similarly sized jury awards are reduced



John Russell / Associated Press

Rachel Sparkman says the family sued over her son's death in a minivan crash because "we wanted people to be aware of the problem."

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on appeal.

But such cases are putting pressure on automakers to re-examine seat design. Safety advocates say collapsing seats in rear-end collisions are a common and dangerous problem.

But the issue is not simply a matter of making stronger seats, automakers say. Chrysler said the seat involved in the Nashville trial is three times stronger than the minimum level required under U.S. regulations. And the company says overly stiff seats would only lead to more neck and spine injuries.

"When you have an accident at this speed, bad things happen," said Chrysler spokesman Michael Aberlich.

Safer seat designs have been on the mind of the regulators as well. The National Highway Traffic Safety Administration finalized new rules requiring better head restraints earlier this month.

But in November, NHTSA declined to establish stronger seatback strength requirements, saying it wants to do additional research and has higher priorities at the moment.

The seat-strength regulation, safety standard 207, has remained essentially unchanged since it was adopted in 1971.

But Clarence Ditlow, director of the Center for Auto Safety, a Washington group that tracks accident data, said he has seen an increase in accidents where children in the back seat are injured by collapsing front seats in otherwise survivable crashes.

"People in these crashes whose seats don't collapse walk away," he said. In November, the Insurance Institute for Highway Safety began a new crash-testing program to evaluate seat safety in a 20 mph rear-end crashes. It found just eight of 73 seats provided good protection

Seatback verdicts

- Nashville, Tenn., child killed. A \$105.5 million verdict against DaimlerChrysler AG in November, involving a 1998 Dodge Grand Caravan. On appeal.
- Chicago, paraplegia. \$14.5 million verdict against Ford Motor Co. in 1999, involving a 1991 Ford Explorer. Upheld on appeal.
- Bucks County, Pa., quadriplegia. \$26 million verdict against General Motors Corp. in 1999, involving a 1984 Chevette. Case settled for undisclosed amount.



Associated Press

Rachel Sparkman says the family sued because she thinks her son, Joshua Flax, above, would be alive if the seats in the crash had not collapsed.



Environmental Research and Safety Technologists

Plaintiffs presented crash tests like this one that showed Chrysler seats collapsing at speeds similar to those in the Flax crash. During the demonstration, A dummy in the standard seat is flown backward into a child dummy in the back seat.

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against neck injuries.

In the Nashville case, Joshua was strapped into a child seat in the second row of the Grand Caravan owned by his grandparents. His mother, Rachel Sparkman, was seated next to him in the other captain's chair. There were two adult women in the third-row bench seat.

After Joshua's grandfather, Jim Sparkman, pulled into a driveway to turn around on a two-lane country road and was pulling away, the Grand Caravan was struck behind by a speeding Ford pickup. The truck overrode the van's bumper, crumpling the back end of the vehicle. The two front seats and Sparkman's captain's chair collapsed. The front passenger, family friend Joe McNeil, fell backward. His head struck Joshua.

Jeremy Flax, Joshua's father, said he went with Sparkman and her parents to look at the van after the crash. The seats were bent backward and twisted, Flax said. If you picked up a seat, it would drop right back down.

"It was pretty evident to me and everyone that that this was the most likely explanation," Flax said.

Rachel Sparkman and Jeremy Flax hired James Butler, a high-profile trial lawyer best known for winning a \$105 million verdict against [General Motors Corp.](#) in a case that involved a pickup gas-tank explosion. Butler argued that Chrysler knew the seats would not perform well in rear-end crashes. He said seatbacks have routinely collapsed in Chrysler's crash tests.

"Daimler has known for over 20 years that these seats are deadly dangerous and never warned anybody," Butler said. "Instead, they continue to claim there's nothing wrong and to try to mislead the press, public and juries. The jury saw through that and has warned Daimler to stop that misconduct."

Jurors found DaimlerChrysler 50 percent responsible for the wrongful death of the infant. Pending appeal, the company is responsible for half of the \$7.5 million awarded for economic and emotional damages. The pickup driver is responsible for the other half. Chrysler is also responsible for the \$98 million punitive award.

Chrysler is not the only manufacturer to be hit with a multimillion dollar award involving failing seatbacks. Plaintiffs attorneys say each of Detroit's Big Three has settled dozens of other cases over the years. Recent cases decided by jury include:

- A 1999 verdict against [Ford Motor Co.](#) involving a seat collapse in a 1991 Explorer SUV. Lydia Carrillo, who became a paraplegic in the crash, won a \$14.5 million jury award. The award was upheld on appeal.
- General Motors Corp. was hit with a \$26 million verdict in state court in Bucks County, Pa., after a 1999 trial, Buongiovanni v. GMC. The case involved a 1984 Chevette that was struck by a Honda Prelude. Plaintiffs introduced into evidence a 1966 GM memo on vehicle rear-end structure noting "an upright seated position" was key to surviving a rear-end crash.

Rachel Sparkman says the family sued because she thinks Joshua would be alive today if the seats in the crash had not collapsed. She said she turned down a multimillion dollar settlement offer before the trial began.

"We wanted to make this public knowledge," she said. "We wanted people to be aware of the problem."

Mary Gauthier, a DaimlerChrysler spokeswoman, said the Grand Caravan seats are designed to yield in a rear-impact crash. The Grand Caravan's seats are about average in stiffness for the industry, she said. Stiffer seats could cause whiplash or other spinal injuries as their

occupants are thrown backward in a crash, Gauthier said.

The company's experts at the trial said a seat has to give during the crash to help absorb some other the energy that would otherwise be fully absorbed by occupants.

"These seats did exactly what they were designed to do," Gauthier said. "If the seats had been stiffer, I'm not sure we would have had those people walking away from the crash."

Gauthier said the Flax accident was an extremely rare type of crash. High-speed, rear-impact crashes account for only about 3 percent of all traffic fatalities, she said.

It is difficult to estimate just how many crashes, or even how many lawsuits, involve seat collapse. In Nashville, plaintiff attorneys submitted a list of 500 incidents culled from Chrysler customer complaints that referred to rear-impact crashes where seats failed and occupants were injured.

When the list was pared down to cases involving vans and speeds similar to the Flax incident, it contained 37 accidents. In those accidents, which occurred between 1990 and 2002, there were two children killed, three adults killed, and 22 children and 10 adults seriously injured. Chrysler says only 13 of the accidents involve minivans with seats identical to the 1998 Grand Caravan. Chrysler also says the minivan seat was redesigned in 2000.

In Nashville, Chrysler also faced the testimony of Paul Sheridan, a former employee who headed up the company's minivan safety leadership team in 1993 and 1994. Sheridan, who has become a frequent expert witness in auto safety trials, said seatback strength was one of the first issues the team looked at in 1993 after a report aired on CBS's "60 Minutes." Sheridan said the team concluded that seats should be strengthened, but company executives overruled them to save money.

"They continued to only comply with the federal regulations, which they knew was inadequate for real-world crashes," Sheridan said.

Sheridan was fired by Chrysler in December 1994. Gauthier said Sheridan never held an engineering position at Chrysler and cannot testify as an expert on engineering issues. Ken Saczalski, a Newport Beach, Calif., consulting engineer who works on seat design issues, testified during the trial that stronger seats in the minivan would have cost about \$7 more per seat. Saczalski petitioned the National Highway Traffic Safety Administration in 1989 to revise federal standards that mandate seats be engineered with a minimum level of strength.

Saczalski conducted crash tests involving vehicles similar to those in the Flax crash. In a video of a demonstration test presented during the trial, a van was outfitted with a standard seat and a stronger seat taken out of a Chrysler Sebring. During the demonstration, a dummy in the standard seat is flown backward into the back seat, colliding with a child dummy in the back seat. The dummy in the Sebring seat stayed put and was not injured.

"It's clear you're better off in stronger seats, and your child is better off with stronger seats," Saczalski said. "We're not against a seat that gives a little, but it can't easily collapse like these do."

In 1989, in formal comments response to Saczalski's petition to NHTSA, Mercedes Benz explained its own safety requirements, including those to: "protect the front occupants during rear impacts through maintaining a mostly vertical seat back position."

Chrysler's lawyers said NHTSA's November decision to put stronger seatback requirements on hold proved their claim that seatbacks that give way in a crash to absorb energy could be safe.

NHTSA has noted disturbing failures of seats in agency crash tests. In a Nov. 13, 2000 notice in the Federal Register seeking comments on a proposed rear-impact crash test to measure fuel-tank integrity, the agency noted dangerous forces to the dummies heads and necks because their seats rotated backward excessively.

"These high values raise concerns about head and neck protection of the occupants," NHTSA wrote. "The rear impact testing also raised concerns about the seat back strength as most seat backs collapsed in those tests."

Gerald Donaldson, research director for Advocates for Highway and Auto Safety, a Washington watchdog group, said it was clear that NHTSA regulators were dismayed by the seatback failures in the crash tests.

"NHTSA's research has made it pretty clear you need a controlled deformation in a rear-impact crash," Donaldson said.

Federal officials would not comment on any of the specifics involving the Nashville trial. But NHTSA spokesman Rae Tyson said the agency's suspension of work on revising the seatback-strength requirement does not mean regulators are no longer interested in upgrading seat designs. They are looking instead at more "holistic" approaches, Tyson said.

"The seatback strength rulemaking was terminated for the simple reason that we believe it may be wiser to approach the seat as part of an integrated unit rather than treat it as a separate part," Tyson said. "We're interested in finding ways to reduce the likelihood of serious injuries in rear-impact crashes."

In the future, NHTSA will look at how seats interact with their head restraints. The agency will continue to do research on seat design as time as resources allow. But it did conclude the safety issue was too complex to just raise the minimum strength requirement and be satisfied.

"If you merely increase seatback strength, you may be trading one set of injuries for another," Tyson said.

"These seats did exactly what they were designed to do."

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