

Auto Parts Co. Fights \$21M Damages Bid In Fatal Defect Case

Law360, Atlanta (September 7, 2022, 10:13 PM EDT) — An auto parts maker on the hook for \$113.5 million in a Georgia widow's product liability and wrongful death case told an Atlanta federal judge Wednesday that the woman's request for an additional \$21 million in damages, attorney fees and litigation costs is unsupported by evidence required under state law.

Autoliv Japan Ltd., which a Northern District of Georgia judge found had defectively designed and manufactured a seat belt that caused the 2013 death of Micah Andrews, asked the court to deny a **motion** by Andrews' wife for damages that alleges the company engaged in frivolous defenses.

But counsel for Jamie Lee Andrews told U.S. District Judge Steve C. Jones during a daylong hearing that the widow deserves \$10 million in damages for the toll that the eight-year case has taken on her as well as \$10 million in attorney fees and \$1 million in expenses.

Lawyers for Autoliv countered that Andrews' motion under what is known as O.C.G.A. 9-11-68(e) lacks the necessary parsing out of damages specifically tied to the manufacturer's alleged frivolous claims or defenses. And Andrews' lead attorneys failed to keep records of their time spent on the case or do the kind of retrospective work that proves the reasonable value of their services, Autoliv said.

"You simply just can't put your finger in the air and say \$10 million," Doug Scribner of Alston & Bird LLP, an attorney for Autoliv, said at the close of the hearing.

Scribner told Judge Jones that what Andrews calls frivolous defenses, he calls "good zealous advocacy" and "excellent lawyering." He said the reason attorney fees experts for both sides had never before seen such a motion under the statute, which he said encompassed all of Andrews' attorney fees in the case, is because the law doesn't allow it.

"It's a first because it's not permitted," Scribner said. "They picked a big round number. They're just throwing that up and hoping you'll say OK. You can't do that ... unless everything we did for eight years was frivolous."

But that is exactly the point that Andrews' counsel made in their arguments before the judge.

James "Jim" E. Butler Jr. of Butler Prather LLP, a lead attorney for Andrews, said Autoliv's posture in the case has been frivolous "from the get-go." He said if Autoliv hadn't presented the frivolous defenses that it isn't responsible for the defectively designed seat belt, or a defectively designed air bag, then Andrews wouldn't have had to endure eight grueling years of litigation, which is likely to be further dragged out on appeal.

The air bag was not central to the case by the time it made it to a bench trial in October, after Andrews had settled with Mazda Motor Corp. and affiliates in addition to other defendants, case records show. Andrews told the court she received \$1.3 million from the Mazda settlement, but nothing from her settlement with Robert Bosch GmbH and affiliates.

"The entire defense was frivolous," Butler told Judge Jones. "The attempt to fractionalize the defense strikes me as nonsense. The frivolity continues today."

Butler said the seat belt in Micah Andrews' car was "useless" and that Autoliv knew it, based on testimony from the company's own expert. Micah Andrews wouldn't have died if the seat belt, or the air bag, had worked, he said.

Butler defended the \$10 million attorney fee request, pointing out that it is a mere fraction of what could be awarded based on Andrews' 40% contingency fee arrangement as applied to the \$113.5 million judgment that Judge Jones imposed against Autoliv in December. And he said the plaintiff's team has incurred \$1.3 million in costs to date.

Andrews took the stand Wednesday to describe the "crushing" nature of the case and especially Autoliv's request years ago that she pay its attorney fees. That occurred after Autoliv won at the summary judgment stage in early 2017 and before the case was **revived** by the Eleventh Circuit. She said that a hearing on Autoliv's attorney fees motion before the judge initially assigned the case, which was filed in 2014, was a particularly difficult day.

"There seemed like so much animosity," Andrews said. "I was just in utter disbelief. I'm already a widow and now a single mom. Why come after me? It seemed unusually cruel."

Andrews said she has tried to be strong for her 13-year-old daughter, but the case is preventing her from fully getting on with her life. It is "one more layer of instability," she said.

"I can't move forward," Andrews said. "I can't even put Micah at peace. I can't let him go. And that's a lot."

Much of the hearing Wednesday involved testimony about the reasonableness of Andrews' \$10 million attorney fee request and whether it was proper under the relevant statute.

Alan Hamilton of Georgia personal injury law firm Shiver Hamilton Campbell, who worked in Butler's firm for about seven years, said product liability cases are typically complex, costly and difficult to win. Considering there were more than 23,000 emails exchanged in the case, which comprised 34 depositions, more than 100 briefs, an appeal and several trial preparations, the request was reasonable, Hamilton said.

But **Robbins Alloy Belinfante Littlefield LLC** managing partner **Richard Robbins**, a litigator of 41 years, said the "data points" proffered by Andrews' counsel in support of their attorney fees bid added up to about half of what they asked for. He said they aren't obligated to keep contemporaneous time records, although that is best practice, and that based on what they provided the court, a reasonable fee request would be in the range of \$1.5 million to \$2 million.

"When you're claiming a fee of \$10 million, it's certainly worth the exercise of going through it on a more granular basis," Robbins said. "It's not rocket science. Clients ask for this information all the time."

Tedra L. Cannella of Cannella Snyder LLC, a lead attorney for Andrews, said she had spent about a third of her time on the case since its inception. Cannella said it was "time well spent" and that she is proud of the work.

Judge Jones allowed the parties to file subsequent briefs on the issue of damages, attorney fees and costs, upon receipt of the hearing transcript, and said he would issue a ruling as soon as he could.

Autoliv is also **challenging** the \$100 million punitive damages component of the December judgment, in addition to Andrews' **fight** for extra damages, fees and costs.

Andrews is represented by Tedra L. Cannella and Rory A. Weeks of Cannella Snyder LLC, James "Jim" E. Butler Jr. of Butler Prather LLP and William L. Ballard and Gregory R. Feagle of Ballard & Feagle LLP.

Autoliv is represented by William J. Repko III, Doug Scribner, Keith R. Blackwell and Jenny A. Hergenrother of Alston & Bird LLP.

The case is Andrews et al. v. Autoliv Japan Ltd., case number 1:14-cv-03432, in the U.S. District Court for the Northern District of Georgia.

-Editing by Jill Coffey.