

FALL 2018 NEWLETTER

PRODUCTS LIABILITY UPDATE

By Rocky Little

In Re: Toyota Motor Sales, U.S.A., Inc. and Toyota Motor Corporation, No. 05-18-00582-CV (Tex.App. – Dallas, June 14, 2018)

Benjamin and Kristi Reavis were traveling in the front seats of their 2002 Lexus ES300 when it was rear-ended by another vehicle. The Reavises contend that upon impact, the front seats failed and the seatbacks collapsed into the back seat striking their minor children resulting in skull fractures and traumatic brain injuries, among other severe and permanent injuries.

As part of the discovery process, the trial court ordered Toyota to diligently search for and produce documents relating to seatback failures, restraint systems, and vehicle crash-worthiness in rear collisions for the "relevant class of vehicles". The relevant class of vehicles was defined as 1997-2001 model year U.S.-bound Lexus ES300, 2002-2006 model year U.S.-bound Lexus ES300/ES330, and 2007-2012 model year U.S.-bound Lexus ES350. Also as part of the discovery process, the trial court ordered Toyota to provide a listing, e.g. a "table of contents" in English that is sufficient to identify the folders and sub-folders within specified databases, and a copy of the index, ledger, bibliography, or other compilation of information from which the papers that are maintained in Toyota's technical library can be identified. Toyota was also ordered to identify all engineers who have had responsibility at any time since 1995 for designing or testing vehicles or seats.

Toyota was likewise ordered to conduct additional searches in accordance with a protocol that requires the parties to work together in good faith to formulate appropriate search queries, with a presumption that the Reavises' proposed formulation would be used if it is reasonably calculated to lead to the discovery of admissible evidence concerning seat systems and/or restraint systems' design or crashworthiness. The protocol also provides that Toyota produce documentation showing the search queries that were performed and describe the results generated in such a way as to enable the Reavises to determine whether search modifications should be made. The protocol allows the Reavises to review the responsive documents after Toyota determines whether documents should be withheld based on a privilege, and allows the parties to seek an order from the trial court expanding or limiting the scope of the searches.

In response, Toyota filed with the Dallas Court Of Appeals ("Court") a Petition for Writ of Mandamus claiming the trial court's discovery order improperly permits what amounts to direct access to Toyota's databases and is overbroad in requiring the production of irrelevant information. The Court noted that mandamus is an extraordinary remedy and is available only when the trial court abuses its discretion and there is no adequate remedy by appeal following judgment. Likewise, the Court noted that the scope of discovery is generally within the trial court's discretion, but the trial court must make an effort to impose reasonable discovery limits. The Court also noted that a party would have no adequate remedy by appeal if it is forced to disclose "patently irrelevant" information or a burden is imposed on the producing party far out of proportion to any benefit to the requesting party.

The Court held that the trial court abused its discretion in ordering Toyota to identify all folders and subfolders within all databases and papers maintained in Toyota's technical library. Likewise, the requirement that Toyota, one of the largest industrial concerns in the world, provide a table of contents listing all folders and subfolders and an index of papers maintained in its technical library, without limitation, is an abuse of discretion because it is not anchored to the subject matter of the lawsuit, nor is it limited to a reasonable amount of time. The Court noted that there is no benefit to producing the many irrelevant folders and subfolders and papers such as those concerning fuel lines, engines, facilities, maintenance, and employees, and to do so would require "undue" expense. The trial court's order should have been limited to folders and subfolders and portions of the technical library that contain documents within the previously defined scope of discovery. The Court also held that the search queries be limited to the relevant class of vehicles and include time constraints. Toyota also asserted that even appropriate search queries will yield documents that are not relevant. The Court indicated that Toyota should only be required to produce relevant documents rather than all documents identified by appropriate search queries.

Toyota also contended that the trial court abused its discretion by ordering it to identify "all engineers who have had responsibility (at any time since 1995) for designing seats" because it is not reasonably limited in time or scope. The Court stated that Toyota should only have to identify the engineers who worked on designing seats for the relevant class of vehicles, which is applicable only to specific models and model years. Finally, the Court concluded that mandamus is an appropriate remedy in this case because, otherwise, Toyota would have to produce "patently irrelevant" information and the burden on Toyota to do so is out of proportion to the benefit, if any, to the Reavises.