



California Supreme Court to review admissibility of industry custom and practice evidence in strict products liability cases

April 20, 2016

Kim v. Toyota Motor Corp.
(Cal. Ct. App. No. B247672, S. Ct. No. S232754)

The California Supreme Court has granted review to consider whether and when evidence of industry custom and practice is admissible in a strict products liability action.

Plaintiffs sued Toyota for injuries Mr. Kim suffered when his pickup truck left the road. Plaintiffs alleged the vehicle was defective because it lacked electronic stability control (ESC), a design feature that assists the driver in maintaining control of the vehicle. The Court of Appeal held the defendant was properly permitted to introduce evidence that it was not customary in the automotive industry to include ESC in trucks at the time. The court observed that such evidence may be relevant to the risk-benefit test for defect.

Moreover, given complexity of the questions about incorporating ESC into vehicles, the Court of Appeal also held that the case was properly submitted to the jury under the risk-benefit test and not the consumer expectations test. In considering this case, the Supreme Court may bring some much needed clarification to the application of the consumer expectations theory of liability, which plaintiffs often use as a means to trigger liability whenever they can convince the jury that the plaintiff did not “expect” to be injured when using the product.

More Information

For further information about this case, please contact Lisa Perrochet or Emily V. Cuatto (818.995.0800).