

## VERDICTS & SETTLEMENTS

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### **Product Liability**

#### **AUTOMOBILE-**

**Wisconsin jury awards \$776,000 to passenger who was burned following rupture of gas tank in rear end collision, to be paid by auto manufacturer.**

Teresa Foster, her sister Tracy, a cousin, and the cousin's boyfriend were riding in a 1971 AMC Gremlin when they were hit from behind by a drunk driver. The gas tank, behind the rear axle, was crushed and the fuel filler pipe, which ran through the passenger compartment, was severed, spewing flaming gasoline inside the car. Teresa's sister, who was driving, and her cousin, in the left rear seat, escaped with minor injuries. The boyfriend, in the right rear seat, was killed, while Teresa, in the right front seat, was severely burned, resulting in the loss of her ears, nose, eyebrows, hair, and most of her fingers.

Foster, represented by Milwaukee attorneys James Murphy and John Cabaniss, sued American Motors Corp. Cabaniss explained that AMC, a late entrant into the subcompact market, created the Gremlin by simply cutting off the back end of the compact Hornet. The Hornet and Gremlin had six cylinder engines. To compensate for gas mileage that was lower than competitors, AMC equipped the Gremlin with a 21 gallon fuel tank, allowing the company to advertise that the car had a range of 500 miles on a single tank of gas.

The plaintiff claimed that the company was negligent in designing a gas tank that held such a large amount of volatile fuel and reduced the amount of available crush space—the area between the rear bumper and the tank. Cabaniss said the tank was seven inches from the bumper compared to an average of 26 inches in other cars.

AMC was also allegedly negligent for running the fuel filler pipe through the passenger compartment rather than behind a metal firewall. The Gremlin had a plastic panel covering the fuel line, but that broke in the crash and directed the spray of fuel to the right side of the passenger compartment. Cabaniss said that the Gremlin was the only subcompact made in the early 1970s with this design.

The defense claimed that the fuel hose did not separate in the crash but in the ensuing fire and that the fire spread through body panels that broke in the crash. The company removed the fuel pipe from the interior in 1979, allegedly for "psychological" reasons—to make customers feel safer.

AMC also argued that the car had been designed in accord with industry customs of the time and that it met federal standards, which did not require rear crash tests until the 1977 model year. But the company conducted rear crash tests of eight cars between

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1968 and 1974. Six suffered a fuel leak in a 20 mph crash, the fuel pipe on one car severed, and two other cars had problems with the integrity of the fuel pipe, Cabaniss said, asserting that AMC knew of the danger.

The defense also challenged the amount of plaintiff's damages, pointing out that she has since had a child out of wedlock and performed poorly in school. The plaintiff, totally disabled from her physical injuries and resulting depression, claimed lost income based on wages as a general laborer.

The jury, from what Cabaniss described as a conservative county, included two auto workers and the spouse of another. They deliberated 18 hours before awarding Foster \$286,000 in lost earning capacity, \$350,000 for pain and suffering, \$49,000 for medical expenses, and \$100,000 in punitive damages.

AMC, represented by Frank Scherkenbach, is expected to appeal. **(Foster v. American Motors Corp., Rock Cty. (Wis.) Cir.Ct., No. 83-CO-996, 3/27/86)**