

VERDICTS & SETTLEMENTS

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ATV: Vehicle flips over: High center of gravity: Narrow wheelbase: Engine too far forward: Spinal fracture: Settlement.

Tanych v. Yamaha Motor Co., U.S. Dist. Ct., D. Vt., No. 2:90CV68, Oct. 7, 1992.

Tanych, 37, was riding a Yamaha YTM 200EL three-wheel all-terrain vehicle (ATV) up a hill when the ATV flipped over backwards. She suffered a burst fracture at L-1 and required surgery for spinal fusion and implantation of Harrington rods. Tanych incurred \$22,000 in medical expenses. A clerk-typist at the time of her accident, she suffers continuous back pain.

Tanych sued the ATV manufacturer and its American subsidiary, alleging that the vehicle had been defectively designed in that its engine was placed too far forward and it had a high center of gravity and a narrow wheelbase. Additionally, plaintiff alleged that defendants had known of the ATV's instability but failed to adequately warn users. Plaintiff did not pursue a claim for lost income.

At trial, plaintiff introduced dealer films, training films, and an outtake from a television advertisement to establish defendants' knowledge of the danger posed by the ATV and their failure to apprise consumers that the vehicle was not stable or easily operated.

The parties settled during trial for \$320,000.

Plaintiff's Experts: Edward Karnes, human factors, Morrison, Co. Randy Nelson, ATV riding, Escondido, Cal. Stuart Statler, ATV safety management and regulation, Washington, D.C.

Defendants' Experts: Kevin Breen, metallurgy, Fort Myers, Fla. Robert Knaff, human factors, Bethesda, Md. Ron Robbins, ATV riding, Fort Myers, Fla.

Plaintiff's Counsel: *John C. Cabaniss, Milwaukee, Wis. *Sten Lium, St. Johnsbury; Vt.