

FOR IMMEDIATE RELEASE

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PLAINTIFFS' SECOND PRESS RELEASE – Ford claims “verdict not supported by the evidence.”

In a stunning statement printed by the Associated Press, Ford Motor Company has reacted to the \$1.7 billion punitive damages verdict by stating “while our sympathies go out to the Hill family, we do not believe the verdict is supported by the evidence.”

First, *nobody from Ford Motor Company* has ever, before today, expressed any ‘sympathy’ for the Hill family. The first time anyone purporting to speak for Ford ever said such a thing was a Ford lawyer in closing argument on August 17, 2022 – eight years and four months after Voncile and Melvin Hill were killed on April 3, 2014.

Second, the press should make Ford answer the question “what evidence did Ford present at trial contrary to the compensatory and punitive damages verdicts?” The answer is: nothing.

At trial, eight Ford employees were called to the witness stand. Plaintiffs themselves presented six Ford engineers, by videotaped depositions, to start Plaintiffs’ case. Two were engineers actually involved in the design of the subject roof. Both admitted the roof could have been made stronger. Four were engineers involved in what Ford called the “Enhanced Roof Strength Program for the Super Duty Truck” (“ERSP”). Those engineers designed, in just 18 months, a roof for the subject trucks that was 4 times stronger than the roof Ford put on 5.2 million Super Duty trucks – and that was cheaper to build than the weak roof Ford used on those 5.2 million Super Duty trucks. Those facts were undisputed. Ford executives declined to actually use that 4 times stronger roof on the Super Duty trucks. Ford offered no explanation for that decision during the trial.

By contrast, Ford presented two employees from what Ford calls its “safety office.” Neither had had anything to do with the subject roof, or with the 4 times stronger ERSP roof. Both were professional testifiers for Ford. One, Michael Leigh, admitted he had testified for Ford in over 100 cases. The other, Chris Eikey

– who was Ford’s “corporate representative” at trial – claimed he had testified in some 70 cases for Ford.

No executive testified for Ford.

Ford also called to the witness stand some of Ford’s usual “expert witnesses” – testifiers for automakers.

Ford put on the witness stand Geoff Germane from Utah to testify to an “accident reconstruction” he had done. Germane admitted he had testified for automakers “hundreds” of times – but never for a citizen suing an automaker. Germane claimed the Hill’s truck rolled over “2 ½ times” – despite proof that if his reconstruction was correct the truck would have ended up in some trees instead of in the front yard of a Sumter County family. His reconstruction defied the laws of physics. The purpose was to add one roll – Plaintiffs’ expert reconstruction engineer testified the Hills’ truck rolled 1 ½ times. Why add one roll? So Ford could repeatedly incant its favorite word in any wreck case – “severe.”

Michelle Vogler testified for Ford, as she admitted she had over 100 times; she also admitted she had testified for automakers “hundreds” of times, but never for a citizen suing an automaker. Her job for Ford was to testify to what Ford supposedly “believed” about whether additional roof strength mattered – even though she had never in her life worked at Ford Motor Company. Despite the trial court’s Sanctions Order holding the subject roofs were defective and dangerously weak, the trial court let Ford put in *all of its arguments* claiming the roof was *not* defective, pursuant to Ford’s claim those arguments were relevant to the question whether punitive damages should be imposed.

Ford ‘safety office’ testifiers Eikey and Leigh had the same assignment at trial – to testify to what Ford supposedly “believed” - again despite the fact neither of those guys had anything to do with the subject roof or the ERSP roof.

All three – Vogler, Eikey, and Leigh – testified that Ford did not “believe” that more roof strength mattered, because, they and Ford’s lawyers said, people ‘dive’ into the roof in the milliseconds before the roof crushes down on their heads and that is what causes the injuries.

Ford did not present a single Ford employee who was actually involved in the design of the subject roof or the 4 times stronger ERSP roof to testify that they ‘believed’ those arguments, *or had even heard of* such arguments. Obviously Ford’s lawyers were present at the depositions of the six Ford roof design

engineers whose testimony was taken by Plaintiffs' counsel. Ford's lawyers did not ask those Ford engineers a single question about whether they 'believed' in those Ford arguments, or had even heard of them.

The so-called 'beliefs' of Ford were based on a series of experiments done by automakers. The first was done in the mid-1980s, where dolly rollover 'tests' were done on 1983 Chevrolet Malibu sedans. Those experiments were done by a person named Kenneth Orłowski. It is undisputed that Orłowski was paid by GM, and has testified "hundreds" of times for Ford and other automakers, but never for a citizen suing an automaker. The second was paid for by Ford and done by Orłowski and by an outfit that assists corporations in defending cases, "Exponent," in 2001, and involved Ford 2001 Crown Victoria sedans. The undisputed evidence at trial was that Ford alone had paid Exponent over \$155 million over the course of 16 years.

Such paid testifiers for automakers do what they call "testing," then get SAE (Society of Automotive Engineers) to publish "papers" about the so-called "testing," and then Ford and other automakers call that "science."

The con was unmasked in this trial. Germane admitted that Ford had paid him to do a reconstruction of a wreck involving a 2003 Ford Explorer which was captured on a state trooper's videocam. According to Germane, that wreck started at 79 mph; the Explorer rolled six times; the only injury was a hurt finger. Germane wrote a paper that SAE obligingly published, as always, in 2008. See PX 748. Ford promptly used that paper to defend a lawsuit in federal court in Kentucky. See PX 808.

"The Germane paper revealed the con," said Plaintiffs' lead counsel, James E. Butler, Jr. "Ford's junk science is concocted to defend lawsuits and fight against stronger safety regulations. No independent engineer believes a word of Ford's arguments about roof-strength-don't-matter and 'diving.'"

"This is a con game that has been going on for decades – automakers pay people to do what they call 'tests,' get papers written about them, and then claim the result is "science," Butler said. "It is nonsense."

Notably Ford did not present a single independent witness, engineer or otherwise, to support the Ford arguments, nor did Ford present a single Ford employee to support those arguments, other than the usual testifiers from what Ford calls its "safety office."

Proof that the Ford junk science is nonsense includes this: Congress mandated that NHTSA increase the roof strength minimum standard,¹ rejecting the roof-strength-don't-matter and 'diving' arguments. NHTSA finally increased the minimum standard, in 2009, rejecting the arguments made by Ford and other automakers. The Insurance Institute for Highway Safety has likewise rejected – and even mocked – the arguments Ford makes. See for example PX 176, 177A, 226.

“The jury clearly understood Ford’s arguments were nonsense,” said Plaintiffs’ counsel Gerald Davidson. “The press should report that truth.”

On the issue of whether Mr. and Mrs. Hill endured conscious pain and suffering, Plaintiffs presented pathologist John Eisenstat, M.D., who did autopsies on the bodies of Mr. and Mrs. Hill. Dr. Eisenstat was selected because he was, at the time of the autopsies, the Chief Medical Examiner for the State of Georgia, and had the Sumter County Georgia Coroner ordered autopsies, Dr. Eisenstat or one of his Medical Examiners would have done those autopsies, and also because none of Plaintiffs’ counsel knew or had ever spoken to Dr. Eisenstat. Plaintiffs’ counsel believed that would keep Ford from criticizing Dr. Eisenstat. “That did not work,” Butler said. “Ford attacked everyone.” Exhumations were necessary to conduct the autopsies because without autopsies Ford could have made up anything about cause of death.

Dr. Eisenstat’s conclusions were clear: Given the injuries suffered by each, and the significant hemorrhaging of each found on autopsy, both clearly lived for some period of time after being injured and neither had an injury that would have caused immediate loss of consciousness.

Ford presented one witness on the subject of conscious pain and suffering – a pathologist named Thomas Bennett, who has made a career of testifying for automakers and tobacco companies. Bennett has practiced in six states – Iowa, then Mississippi, then North Carolina, then Iowa again, then Montana, and currently lives in Wyoming, where his job is testifying – he is not an appointed medical examiner anywhere. Bennett resigned his medical examiner job in Iowa amidst controversy about autopsies on children and his testimony against

¹ Federal standards are, as a matter of law, “minimum” standards. See PX 166. Compliance with the mere minimum is no defense to a product liability lawsuit. See PX 167.

defendants he accused of causing “shaken baby syndrome.” He moved to Montana, where the Chief Medical Examiner in the Montana Department of Justice forbade him from conducting autopsies on children.

At trial, Bennett and a Ford lawyer tried to make it appear that the Montana Chief Medical Examiner had sent Bennett “a letter” forbidding him from doing autopsies on children. In fact, as Bennett was forced to admit on cross examination, the Montana Chief Medical Examiner sent Bennett four such letters. See PX 799 (2001); 800 (2000); 801 (2005); 803 (2014 (formally terminated Bennett’s appointment as “associate medical examiner”). The Montana Chief Medical Examiner also sent two such letters, copied to Bennett, to each County Attorney and County Coroner in each of Montana’s 52 counties. See PX 802, 804. See also 8/12/22 Trial Transcript (rough- final version not ready yet), starting at page 38 (cross examination of Bennett).

Bennett elected not to do his own autopsies – a decision reached at what Ford calls an “LEC” – lawyer-expert conference, where Ford’s defense lawyers and expert witnesses team get together to plot what to say at trial. Bennett admitted he had “every opportunity” to do his own autopsies. See 8/12/22 Trial Transcript 93/9-15. Instead, he inexplicably relied entirely on Dr. Eisenstat’s autopsies – the same Dr. Eisenstat Ford’s lawyers criticized all during the trial.