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Wednesday, January 22, 2003



Associated Press

Ford Econoline 15-passenger van

Judge slams Ford in van case

Jury in liability trial to be told tests show Econoline E350 is unsafe

By Jeff Plungis / Detroit News Washington Bureau

WASHINGTON -- A federal judge ruled Tuesday that **Ford Motor Co.** unlawfully withheld tests that showed its Econoline 15-passenger van was unsafe, calling the automaker's behavior "totally reprehensible."

As part of a product liability trial, U.S. District Court Judge Robert Gettleman in Chicago ordered Ford to produce all relevant documents by Jan. 31 and pay all costs the plaintiffs incurred in trying to obtain the test results.

Gettleman also said he would instruct the jury that Ford's tests showed the E350 van was "unsafe in handling and stability," according to a written court order.

The lawsuit involves a 1996 rollover crash involving a 1995 E350 Super Club Wagon in Kentucky. The church-owned van was en route from Washington, D.C., to Chicago. Two of the 13 passengers in the van were killed, including a child. One other passenger was left a quadriplegic.

"It's a big victory for the people of this country," said James Lowe, an attorney representing the plaintiffs. "It's an issue of corporate credibility in dealing with safety defects. Ford has a problem with that."

Gettleman fined Ford an undisclosed amount.

The judge's ruling could prove problematic for Ford, which controls about 80 percent of the U.S. large passenger van market. Plaintiffs

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attorneys estimate there are 80 15-passenger van lawsuits pending against the company.

The Dearborn automaker also faces numerous lawsuits relating to the Crown Victoria Police Interceptor and the Explorer SUV.

Some attorneys said the precedent set in Chicago will make Ford's defense in Explorer litigation more difficult. Plaintiffs attorneys have asked for rollover testing in hundreds of those cases. Ford said it had performed computer-based rollover modeling on the Explorer, but could not locate the paperwork.

Instead, Ford filed sworn statements from engineers about the rollover tests and hired two outside engineering firms to replicate the results. Gettleman's ruling may bring Ford's credibility into question in those cases, the attorneys said.

"Ultimately, this could have implications to the Explorer litigation," said Sean Kane, a consumer advocate with Strategic Safety, a Massachusetts consulting firm that works with trial lawyers. "Ford has not produced the tests. They say they just can't find them."

Lowe said that Ford's tests on the 15-passenger van were conducted in March 2001. A month later, the National Highway Traffic Safety Administration issued an unusual consumer advisory that cautioned owners of 15-passenger vans to take extra safety precautions.

The vans' high center of gravity made the vehicles difficult to handle and prone to rollover, NHTSA warned. But while encouraging proper training for drivers who operate large vans, NHTSA has found no evidence of a design defect.

Ford had previously denied the existence of the van rollover tests. Ford officials disagreed with Gettleman's characterization of the tests at issue. Ford said the tests uncovered by the plaintiffs' attorneys were done on a "rudimentary, cobbled model," not the production version of the E350 15-passenger van, and were not relevant to the case.

"It wasn't validated testing," Ford spokeswoman Kathleen Vokes said.

Vokes said the company would continue to press its case in court, despite the legal setback. Gettleman made no factual finding on the overall safety record of the van, Vokes said.

"We look forward to trying this case on its merits and will prove that 15-passenger Econoline vans are safe vehicles," Vokes said. "This accident was caused by a driver asleep at the wheel."

The Chicago ruling played out in the context of a larger debate about 15-passenger van safety. The vehicles, frequently used to shuttle church groups and scholastic athletic teams, have become the subject of government safety warnings and numerous death and injury claims stemming from rollover wrecks.

At least two insurance companies -- Iowa-based GuideOne Insurance and the Colorado School Districts Self Insurance Pool -- recently stopped writing new policies on the vans because of safety concerns.

In November, the National Transportation Safety Board urged Ford and General Motors to add engineering enhancements to improve van safety. The NTSB also recommended that NHTSA add 15-passenger vans to a rollover rating program slated to be introduced later this year.

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\$75,000

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