

# Daily Journal

## VERDICTS AND SETTLEMENTS

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### **Personal Injury**

Product Liability

Wrongful Death

## Shanisha Courtney, Raymond Courtney, Jr., Martel Courtney v. Daimler Trucks North America LLC

Published: Jan. 10, 2020 | Result Date: Dec. 5, 2019 | Filing Date: Mar. 29, 2016 |

Case number: BC615223Verdict – **\$12,000,000**

Judge

[Michael P. Vicencia](#)

Court

Los Angeles County Superior Court

Attorneys

Plaintiff

[Arash Homampour](#)

(The Homampour Law Firm PC)

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Defendant

[Philip R. Cosgrove](#)

(Nelson, Mullins, Riley & Scarborough LLP)

[Ryan E. Cosgrove](#)

(Nelson, Mullins, Riley & Scarborough, LLP)

Experts

Plaintiff

[James William Jones Ph.D.](#)

(mechanical engineering)

[Mark Pozzi M.S.](#)

(safety consultant)

[Joseph H. Romig Ph.D.](#)

(fire cause and origin)

[Robert J. Caldwell P.E.](#)

(accident reconstruction)

Defendant

[Richard A. Watson](#)

(mechanical engineering)

[Robert D. Banta](#)

(fire cause and origin)

[Jonathan L. Arden](#)

(forensic pathology)

[Anthony Moor](#)

(design and development)

[Gregory D. Stephens P.E.](#)

(accident reconstruction)

#### Facts

On Aug. 1, 2014, Cornelia Marie Wilson, a 51-year-old truck driver for Swift Transportation, was driving defendant Daimler Trucks North America, LLC's 2009 Freightliner Columbia tractor trailer equipped with two 100-gallon side-mounted diesel fuel tanks when, for reasons unknown, she veered off the I-710 just south of Imperial and collided with a tree. Decedent survived the initial impact with no broken bones, fractures, or blunt force trauma. Autopsy detected no drugs, alcohol, or serious medical condition.

The exposed side-mounted fuel tank on the driver's side was pierced by the truck's axle during the impact, causing diesel fuel to spray out of the tank and erupt into flames. An eyewitness saw the cab of the truck intact, then a small glow under the cab, and then suddenly, within a few seconds, saw a 20-plus foot fireball engulf the cab. Decedent burned to death.

Plaintiffs, the decedent's three adult children, brought this product liability wrongful death action against defendant.

#### Contentions

**PLAINTIFFS' CONTENTIONS:** Plaintiffs contended that the subject truck and its fuel system were defective in design due to the exposed side-mounted fuel tanks which are extremely vulnerable and easily susceptible to piercing by other components of the truck. Plaintiffs proposed safer alternative designs of the truck and its fuel system, namely moving the fuel tank behind the cab where it is much less exposed and vulnerable. Plaintiffs contended that Wilson would have survived but for the post-collision diesel fire.

**DEFENDANT'S CONTENTIONS:** Defendant contended that the subject truck's side-mounted fuel tank system is the safest possible design and that plaintiffs' proposed safer alternative designs could not/would not work for a variety of reasons. Defendant further contended that Wilson was negligent in veering off the highway and colliding with the tree.

#### Settlement Discussions

Defendant Daimler's highest offer was \$650,000.

#### Result

The jury found both that defendant Daimler Trucks North America's design was defective and that defendant was negligent in its design. Plaintiffs were awarded a total of \$12 million in general wrongful death damages (\$4 million to each adult child). The jury apportioned 100 percent to defendant Daimler Trucks North America LLC.

#### Other Information

Plaintiffs are expecting to receive an additional \$621,370 in pre-judgment interest as they recovered more than their CCP 998 offer for \$5,100,000 served on May 30, 2019. Plaintiffs also expect to recover over \$500,000 in costs.

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