

Toyota Wins Rollover Injury Case In Calif.

By **Greg Ryan**

Law360, New York (December 06, 2012, 7:25 PM ET) -- A California jury found in favor of Toyota Motor Corp. on Monday in a lawsuit claiming its failure to install stability control in a truck caused a rollover crash that left the driver a quadriplegic, according to the automaker's attorneys.

The jury determined plaintiff William Jae Kim's 2005 Tundra was not designed defectively, concluding a four-week trial, said Bowman and Brooke LLP, one of the firms representing the company. Toyota could have lost more than \$50 million in the suit, the firm said.

The crash at issue occurred in April 2010 on the Angeles Forest Highway in Los Angeles County, according to a trial brief filed by Toyota. Kim was rounding a curve when he lost control of the vehicle and it flew off a cliff, the brief said.

The vehicle rolled over at least four times, and Kim was paralyzed when he was thrown into the roof when the vehicle landed upside down according to the brief.

Kim alleged the Tundra was defective because it lacked vehicle stability control, a safety feature designed to prevent the loss of traction. Had the vehicle had stability control, the crash would not have happened, Kim said.

Toyota maintained, however, that Kim had put used, mismatched tires on the truck, with the front tires almost completely worn in places. The curve where Kim lost control had a cautionary speed of 30 mph, but he was driving at least 45 mph, Toyota said, adding that the road was wet from rain.

"The sole proximate cause of the accident was Kim's negligent decision to drive at a high rate of speed on a wet mountain curve with water on it, with tires that were clearly unsafe," Toyota said.

Kim brought claims for strict liability, negligence and breach of warranty. He originally questioned the crashworthiness of the vehicle in the suit, but "plaintiffs' counsel eventually recognized ... the reality that any vehicle flying off a mountain cliff is going to be seriously damaged and the occupant killed or

seriously injured."

Kim brought the suit against Toyota in July 2011. He targeted Los Angeles County and the California Department of Transportation in a separate lawsuit following the crash, but later dropped the suit, according to the brief.

An attorney for Kim could not be reached immediately for comment on the verdict.

Kim is represented by Ian Herzog and Thomas Yuhas of The Law Offices of Ian Herzog.

Toyota is represented by David Stone of Bowman and Brooke LLP and Patrick Rogan, Daniel Villegas and Jung Chon of Rogan Lehrman LLP.

The case is Kim et al. v. Toyota Motor Corp. et al., case number VC059206, in the Superior Court of California, Los Angeles County.

--Editing by Chris Yates.

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