

Toyota Dodges Suit Over Prius Crash Prevention System

By **Lance Duroni**

Law360, Chicago (January 15, 2014, 1:20 PM ET) -- A California federal judge last week tossed a proposed class action alleging Toyota Motor Corp. improperly markets a collision avoidance system in its Prius model that actually provides no real safety benefit, finding that the plaintiffs failed to show how they were harmed or that the automaker made misrepresentations about the product.

In a Jan. 9 order, U.S. District Judge John F. Walter dismissed all of the claims in the case with prejudice, leaving the plaintiffs without an opportunity to amend their complaint.

Plaintiffs Tae Hee Lee and Alan Quan sued Toyota in October, claiming the “pre-collision” system, which is an option available for the Prius V and other models, purportedly provides automatic braking when the vehicle’s radar system determines that a frontal collision is unavoidable, but in practice the system is ineffective.

The suit was based in large part on an Insurance Institute of Highway Safety report detailing collision tests that indicated the PCS did not automatically reduce speed sufficiently to meet the IIHS’ standard for a front crash prevention system. The plaintiffs described the braking achieved by the system as “negligible” and argued that they paid about \$1,000 extra for a safety feature, which didn’t work as advertised.

Judge Walter, however, found that the plaintiffs did not have standing to bring the suit because they failed to allege an “injury in fact.” The plaintiffs concede that the system does automatically reduce the speed of the vehicle to some extent, and can’t point to a boast from Toyota about exactly how well the system works.

“Plaintiffs do not have a bargained-for benefit claim based on the extent of performance of the PCS in the absence of a claim that Toyota made representations about the amount or extent of speed reduction provided by the PCS,” he wrote.

The plaintiffs also claimed that their vehicles diminished in value after the IIHS report revealed the system’s ineffectiveness. But Judge Walter said that in cases involving insufficient performance of a product, plaintiffs must allege “something more” than this to support a claim, such as that the system failed to work as described or that they sold their vehicles at a loss.

While the judge's ruling on standing doomed the suit, he also addressed Toyota's other grounds for dismissal and again found the complaint lacking. The suit's fraud claims and claims under California's Consumer Legal Remedies Act, for instance, also failed due the plaintiffs' failure to identify a misrepresentation from Toyota about the performance of the braking system.

"Plaintiffs have not alleged that they saw, read or in some way relied on a statement by Toyota promising that the pre-collision braking feature in their Prius' PCS would operate at a particular level of efficiency, or that it would conform to any particular standard, much less the private IIHS criteria," Judge Walter wrote.

Counsel for the plaintiffs did not respond Wednesday to a request for comment.

The plaintiffs are represented by Richard D. McCune and Jae K. Kim of McCuneWright LLP, Daniel H. Chang of Diversity Law Group and Edward W. Choi of Law Offices of Choi & Associates.

Toyota is represented by David L. Schrader, Esther K. Ro, J. Gordon Cooney and Franco A. Corrado of Morgan Lewis & Bockius LLP and Mark V. Berry of Bowman & Brooke LLP.

The case is Tae Hee Lee et al. v. Toyota Motor Sales U.S.A. Inc., number 13-cv-7431 in the U.S. District Court for the Central District of California.

—Additional reporting by Juan Carlos Rodriguez. Editing by Richard McVay.

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