

# Stark v. Ford Motor Co.

Ch. 7 Strict Liability

Daniel Gil | Leslie Chavez | Danielle Lagria

# Background

- ▶ **Plaintiffs:** Cheyenne, Cody, and Cory Stark through their Guardian ad Litem, Nicole Jacobsen and Ruby Stark as well as Gordon Stark. A Guardian ad Litem is an individual appointed by the court to represent the child's best interest in a case involving a child with divorced parents or in a parental rights and responsibilities case
- ▶ **Plaintiffs' claims:** They filed a complaint on the 23<sup>rd</sup> of April 2004 against Ford Motor Company claiming that Cheyenne suffered a spinal cord injury caused by a faulty seatbelt design she was wearing at the time of her accident involving her parents' Ford Taurus that happened on the 23<sup>rd</sup> of April 2003. The claim further stated that Cody also suffered from "severe abdominal injuries, including damage to his spleen." Later on in the case Gordon and Cory Starks claims were later dismissed.
- ▶ **Facts:** Cheyenne and Cody were travelling as passengers in the backseat of the Taurus on the 23<sup>rd</sup> of April 2003. When the accident occurred Cheyenne was five years old, and Cody was nine years old. Both Cheyenne and Cody were wearing their three-point seatbelts designed by the Ford Motor Company (the defendant), and not in a booster seat. But their sibling Cory of three years old was sitting in his seat in the center of the backseat of the vehicle.
- ▶ Tonya Stark the mother of the three children was driving the Taurus, and her husband also the father of the three children was riding along as passenger in the front seat. Tonya Stark was going at twenty-six miles per hour, when her vehicle without warning accelerated and she lost control. When Tonya Stark lost control of the Taurus it collided into a light pole in the parking lot.
- ▶ After the impact into the pole, Cheyenne was stunned but capable of walking, but then a few moments later after being taken to the nearest hospital she began to complain of leg pain, and soon after lost all feeling in her body from the waist down.

## ► Statement #1:

The complaint alleged that Defendant engaged in "[w]illful, [w]anton and [r]eckless [m]isconduct" in designing the seatbelts in the Taurus and that Defendant's actions caused physical and cognitive injuries to Cheyenne and Cody. The complaint also alleged that the engine in the Taurus was defectively designed in that it caused a "sudden unintended acceleration" which led to the collision. Defendant filed an answer generally denying negligence and defective design and asserting that Tonya Stark and Gordon Stark were the cause of any injuries. Defendant also alleged, *inter alia*, the affirmative defenses of unauthorized modification or alteration of the Taurus or its components and failure to follow instructions or warnings given by Defendant.

## ► Explanation:

The complaint stated that the Defendant involved themselves in an intentional, malicious and careless seatbelt design causing injuries to Cheyenne and Cody. The complaint also claimed that the engine in the Taurus was carelessly designed causing the sudden unwanted acceleration leading to the impact into the light pole. The Defendant claimed no such negligence to the design of the vehicle and arguing that the ones at fault of any injury were Tonya and Gordon Stark. Among other things the Defendant also argued that Tonya and Gordon Stark did not follow instructions about making any alterations to the vehicle as well as any warnings given about the Taurus.

## ► Statement #2:

At trial, Plaintiffs presented expert testimony that the injuries Cheyenne suffered were caused or enhanced by a design defect known as "film spool" in the seatbelt she was using. This defect allowed slack in the seatbelt to cause the shoulder portion of the belt to slip off Cheyenne's shoulder and come to rest in a position lower on her body, such that she bent over the seatbelt during the accident. It was this "film spool" and the resulting movement by Cheyenne that Plaintiffs asserted as the cause of Cheyenne's injuries. Plaintiffs further presented evidence that the use of certain devices may prevent "film spool" from occurring during accidents by retracting or otherwise restricting any excess belt material during a collision. The Taurus was not equipped with any of these devices.

## ► Explanation:

During the trial, the Plaintiffs presented expert testimony that the suffered injuries came about from a design defect known as "film spool" in the seatbelts installed in the vehicle. The defect in the seatbelt made it to be not tight to whomever wore it causing the shoulder part of the restraint to slip off Cheyenne's shoulder and not stay in a position closer to her body, which caused her to bend at the time of impact over the seatbelt. The Plaintiffs further went on to explain how the vehicle lacked certain equipment to keep "film spool" from happening, which is why they proceeded with their claims that "film spool" was the result in Cheyenne's injuries.

### ► Statement #3:

The trial court submitted questions to the jury. The jury answered those questions, in pertinent part, as follows:

4. Did the Defendant Ford Motor Company act unreasonably in designing the 1998 Ford Taurus and its component parts, proximately causing enhanced injury to Cheyenne Stark?

Answer: [Yes] [If you answer "Yes" to this issue, then go to Issue 5; if you answer "no" to this issue, then do not consider any further issues.]

5. Were the enhanced injuries to Cheyenne Stark caused by using the 1998 Ford Taurus in a manner contrary to any express and adequate instructions or warnings which were known or should have been known by the user?

Answer: [No] [If you answer "Yes" to this issue, then do not consider any further issues; if you answer "no" to this issue, go to Issue 6]

6. Were the enhanced injuries to Cheyenne Stark caused by an alteration or modification of the 1998 Ford Taurus?

Answer: [Yes] [If you answer "yes" [sic] to this issue, then do not consider any further issue; if you answer "no" to this issue, then go to Issue 7.]

### ► Explanation:

Defendant then proceeded to assert that the seatbelt was being misused by wearing the shoulder portion behind Cheyenne's back as well as saying Tonya and Gordon Stark didn't follow the adequate warning or instruction of having any child under the age of seven wear a booster seat being a cause of negligence because the Cheyenne was a minor under the required age of not having to wear a booster seat. Then after hearing both the Defendants and Plaintiffs claims, the Trial Court denied the Plaintiffs motion due to the following questions answered as relevantly as possible to the case. Since the Plaintiff's did do an alteration or modification to the Taurus causing enhanced injuries to Cheyenne, there was nothing left to move forward. They also determined that the Defendant's product was not proximate cause to Cody's injuries, making the court in favor of the Defendant and ordering Plaintiff to receive nothing.

## ► **Statement #4:**

The jury further determined that Defendant's product, the Taurus, was not the proximate cause of enhanced injury to Cody. The trial court entered judgment in favor of Defendant on 15 May 2007, ordering that Plaintiffs recover nothing from Defendant, dismissing Plaintiffs' complaint, and awarding costs to Defendant. The trial court retained jurisdiction for the purposes of determining costs and expert witness fees.

## ► **Explanation:**

Showing the element of proximate cause is essential in order to successfully argue that Ford was negligent. However, the trial jury concluded that the alleged defects of the vehicle did not directly cause a higher degree of injury to Cody than he would have otherwise sustained if the seatbelts were working effectively. For this reason the trial court ruled in favor of Ford and also awarded the company compensation for costs of the lawsuit.

## ► **Statement #5:**

N.C. Gen.Stat. §§ 99B-1 et seq., which govern products liability actions in North Carolina, provide a defense to a products liability claim in N.C. Gen.Stat. § 99B-3, as follows:

(a) No manufacturer or seller of a product shall be held liable in any product liability action where a proximate cause of the personal injury, death, or damage to property was either an alteration or modification of the product by a party other than the manufacturer or seller, which alteration or modification occurred after the product left the control of such manufacturer or such seller unless:

(1) The alteration or modification was in accordance with the instructions or specifications of such manufacturer or such seller; or

(2) The alteration or modification was made with the express consent of such manufacturer or such seller.

(b) For the purposes of this section, alteration or modification includes changes in the design, formula, function, or use of the product from that originally designed, tested, or intended by the manufacturer. It includes failure to observe routine care and maintenance, but does not include ordinary wear and tear. N.C. Gen.Stat. § 99B-3 (2009).

## ► **Explanation:**

N.C. Gen.Stat. §§ 99B-3 specifies that a manufacturer or seller of a product will not be held liable for product liability claims in which the plaintiff's injury was caused by an alteration or modification of the product that the manufacturer or seller did not perform. A modification or alteration occurs when a party uses the product in a way that is different from its intended use or function, or if the product is changed in a way that is not intended by the seller or manufacturer. This modification must also occur after the seller or manufacturer releases control of the product. The statute also provides exceptions: if the alteration or modification was consented to by the manufacturer or seller, or if the user followed the product's instructions when modifying the product, then the manufacturer or seller can be held liable for any injuries.

## ► Statement #6:

Foreseeability of some injurious consequence of one's act is an essential element of proximate cause, though anticipation of the particular consequence is not required. While the usual test is whether "a person of ordinary prudence could have reasonably foreseen ..." some injurious result from the unintended use of the product; where, as in the present case, the actions of a minor child are at issue, the test of foreseeability is whether a child of similar "age, capacity, discretion, knowledge, and experience" could have foreseen some injurious result from his or her use of the product.

## ► Explanation:

According to common law, determining liability for injuries is dependent on the proximate cause of those injuries. Proximate cause means that: (1) had it not been for a party's actions, the injury would not have happened, and (2) the injury should have been foreseeable according to the reasonable person standard. Since this case involves minors, the "reasonable person" standard may not apply here as it would if the plaintiff was a legal adult. The court then applied a different standard, and questioned if another child similar in age and background would have foreseen an injury from modifying the seatbelt.



## ► Statement #7:

We apply the same principles of negligence to the N.C.G.S. § 99B-3 analysis in the present case. While the minor plaintiff in *Hastings* was eight years old, in the case before us, Cheyenne was five years old and therefore subject to a different standard of care. As discussed above, the appropriate standard of care to apply, when analyzing the negligence of a child under seven years of age, is that such children are, as a matter of law, incapable of negligence. [Harrington, 260 N.C. at 666, 133 S.E.2d at 455](#). Therefore, because Cheyenne was a child under seven years of age at the time of the alleged alteration or modification, Defendant is unable, as a matter of law, to prove the requisite element of foreseeability inherent in the proximate cause portion of its N.C.G.S. § 99B-3 defense. Because foreseeability, and therefore proximate cause, is lacking in Defendant's defense as to Cheyenne, N.C.G.S. § 99B-3 is inapplicable to any alteration or modification alleged to have been performed by Cheyenne herself.

## ► Explanation:

The defendant states they are protected under N.C.G.S. § 99B-3. However, the Plaintiffs argue that due to Cheyenne's age of 5 at the time she cannot be considered negligent because she could not have had the capability to foresee the consequences of her alteration. They argue due to this reason Defendant's defense of being protected under N.C.G.C. § 99B-3 is inapplicable.

## ► Statement #8:

Therefore, the plain language of N.C.G.S. § 99B-3 states that the entity responsible for the modification or alteration of the product must be a party to the action in order for the defense to apply. Because Defendant asserts that the modification was performed by Gordon Stark, who is not a party to the action in this case, Defendant is unable to establish an N.C.G.S. § 99B-3 defense as to such an alleged modification

## ► Explanation:

Defendants then argued that Gordon Stark was responsible for the alteration due to the fact that he was the one who placed Cheyenne in the seat and put the seat belt behind her shoulder, therefore being responsible for the negligence and foreseeability of the alteration. But the plaintiffs state that Gordon Stark was not a party to the action meaning he was removed from the case and was no longer a plaintiff in the case since he and Tonya Stark had their personal injury claims dismissed on 22 August 2006. Defendants failed to file a third-party complaint naming Gordon Stark and Tonya Stark defendants until January 2007 after the hearing on October 30, 2006. Therefore at the time of the trial the only parties were Cheyenne and Cody, by their guardian ad litem, Nicole Jacobsen, as plaintiffs, and Ford Motor Company as defendants.

▶ **#9. Explain who won and provide a conclusion.**

- ▶ This case was won by the Plaintiff's Cheyenne and Cody Stark, and also their guardian litem, Nicole Jacobson. The court in the end reversed the former court's ruling to deny the Plaintiff's motion for directed verdict, due to the fact that the defendants assumed protection under product liability N.C.G.S. § 99B-3 was proven inapplicable because it neither applied to Cheyenne Stark due to her age or to Tonya or Gordon Stark because they were not a party to the action as of August 22, 2006.