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# A Case Study Review of General Motors and Faulty Ignition Switches

## The Switch

In 2001 the switch that caused many heart breaks and save some lives is still being talked about in 2018. General Motors brands had a defect on the ignition switch of several models one being the Cobalt. According to Consumer Safety.org "These malfunctions lead to a number of crashes that caused at least 124 deaths and nearly 300 injuries'." The General Motors switch has a small spring it is called a detent plunger. That detent plunger connects to a plastic piece when the ignition is turned. It is much like a pen that pushes in. Once it is pushed in it is to go from the accessory mode, which allows you to listen to music, to have the lights on etc... If the switch is bumped or the car goes over a bump the car would turn off and go into that accessory mode. If you are driving down the road and go over a bump your car will just shut down and lose power you would lose all power of the steering wheel and the brakes. At some point the detent plunger was change from the 2005 model to a newer version, which was 15% longer than the older model.

In 2010 Brooke Melton's family advocated on her behalf to find out what truly happened on that day her car veered onto oncoming traffic that tragically ended her life. A father's determination was the start to unlock several other cases that were settled out of court and kept quite with very little pay out for families that died because the faulty ignition switch. Brooke's father hired an expert to investigate the car and that is where some of the secrets were hiding in the computer of her car. This computer told the expert that right before impact it jumped from a high speed to zero very quickly. That told the mechanic that something was defected. A lot of the reasons for the settlements out of court was due to lawyers being afraid to go up against a huge company like GM. It was not until 2014 Gm started recalling vehicles. The following are the negligence statues in Connecticut where the accident happened.

Sec. 52-572h. Negligence actions. Doctrines applicable. Liability of multiple tortfeasors for damages.(a) For the purposes of this section: (1) "Economic damages" means compensation determined by the trier of fact for pecuniary losses including, but not limited to, the cost of reasonable and necessary medical care, rehabilitative services, custodial care and loss of earnings or earning capacity excluding any noneconomic damages; (2) "noneconomic damages" means compensation determined by the trier of fact for all nonpecuniary losses including, but not limited to, physical pain and suffering and mental and emotional suffering; (3) "recoverable economic damages" means the economic damages reduced by any applicable findings including but not limited to set-offs, credits, comparative negligence, additur and remittitur, and any reduction provided by section 52-225a; (4) "recoverable noneconomic damages" means the noneconomic damages reduced by any applicable findings including but not limited to set-offs, credits, comparative negligence, additur and remittitur.

In causes of action based on negligence, contributory negligence shall not bar recovery in an action by any person or the person's legal representative to recover damages resulting from personal injury, wrongful death or damage to property if the negligence was not greater than the combined negligence of the person or persons against whom recovery is sought including

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settled or released persons under subsection (n) of this section. The economic or noneconomic damages allowed shall be diminished in the proportion of the percentage of negligence attributable to the person recovering which percentage shall be determined pursuant to subsection (f) of this section.

In a negligence action to recover damages resulting from personal injury, wrongful death or damage to property occurring on or after October 1, 1987, if the damages are determined to be proximately caused by the negligence of more than one party, each party against whom recovery is allowed shall be liable to the claimant only for such party's proportionate share of the recoverable economic damages and the recoverable noneconomic damages except as provided in subsection (g) of this section.

The proportionate share of damages for which each party is liable is calculated by multiplying the recoverable economic damages and the recoverable noneconomic damages by a fraction in which the numerator is the party's percentage of negligence, which percentage shall be determined pursuant to subsection (f) of this section, and the denominator is the total of the percentages of negligence, which percentages shall be determined pursuant to subsection (f) of this section, to be attributable to all parties whose negligent actions were a proximate cause of the injury, death or damage to property including settled or released persons under subsection (n) of this section. Any percentage of negligence attributable to the claimant shall not be included in the denominator of the fraction.

In any action to which this section is applicable, the instructions to the jury given by the court shall include an explanation of the effect on awards and liabilities of the percentage of negligence found by the jury to be attributable to each party.

The jury or, if there is no jury, the court shall specify: (1) The amount of economic damages; (2) the amount of noneconomic damages; (3) any findings of fact necessary for the court to specify recoverable economic damages and recoverable noneconomic damages; (4) the percentage of negligence that proximately caused the injury, death or damage to property in relation to one hundred per cent, that is attributable to each party whose negligent actions were a proximate cause of the injury, death or damage to property including settled or released persons under subsection (n) of this section; and (5) the percentage of such negligence attributable to the claimant.

Upon motion by the claimant to open the judgment filed, after good faith efforts by the claimant to collect from a liable defendant, not later than one year after judgment becomes final through lapse of time or through exhaustion of appeal, whichever occurs later, the court shall determine whether all or part of a defendant's proportionate share of the recoverable economic damages and recoverable noneconomic damages is uncollectible from that party, and shall reallocate such uncollectible amount among the other defendants in accordance with the provisions of this subsection. (2) The court shall order that the portion of such uncollectible amount which represents recoverable noneconomic damages be reallocated among the other defendants according to their percentages of negligence, provided that the court shall not reallocate to any such defendant an amount greater than that defendant's percentage of negligence multiplied by such uncollectible amount. (3) The court shall order that the portion of such uncollectible amount which represents recoverable economic damages be reallocated among the other defendants. The court shall reallocate to any such other defendant an amount equal to such uncollectible amount of recoverable economic damages multiplied by a fraction in which the

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numerator is such defendant's percentage of negligence and the denominator is the total of the percentages of negligence of all defendants, excluding any defendant whose liability is being reallocated. (4) The defendant whose liability is reallocated is nonetheless subject to contribution pursuant to subsection (h) of this section and to any continuing liability to the claimant on the judgment.

A right of contribution exists in parties who, pursuant to subsection (g) of this section are required to pay more than their proportionate share of such judgment. The total recovery by a party seeking contribution shall be limited to the amount paid by such party in excess of such party's proportionate share of such judgment.

An action for contribution shall be brought within two years after the party seeking contribution has made the final payment in excess of such party's proportionate share of the claim.

This section shall not limit or impair any right of subrogation arising from any other relationship.

This section shall not impair any right to indemnity under existing law. Where one tortfeasor is entitled to indemnity from another, the right of the indemnitee is for indemnity and not contribution, and the indemnitor is not entitled to contribution from the indemnitee for any portion of such indemnity obligation.

This section shall not apply to breaches of trust or of other fiduciary obligation.

The legal doctrines of last clear chance and assumption of risk in actions to which this section is applicable are abolished.

The family car doctrine shall not be applied to impute contributory or comparative negligence pursuant to this section to the owner of any motor vehicle or motor boat.

A release, settlement or similar agreement entered into by a claimant and a person discharges that person from all liability for contribution, but it does not discharge any other persons liable upon the same claim unless it so provides. However, the total award of damages is reduced by the amount of the released person's percentage of negligence determined in accordance with subsection (f) of this section.

Except as provided in subsection (b) of this section, there shall be no apportionment of liability or damages between parties liable for negligence and parties liable on any basis other than negligence including, but not limited to, intentional, wanton or reckless misconduct, strict liability or liability pursuant to any cause of action created by statute, except that liability may be apportioned among parties liable for negligence in any cause of action created by statute based on negligence including, but not limited to, an action for wrongful death pursuant to section 52-555 or an action for injuries caused by a motor vehicle owned by the state pursuant to section 52-556.

History: P.A. 82-160 rephrased the section and added Subsec. (d) re family car doctrine, formerly Sec. 52-572i; P.A. 86-338 added provisions re the definition of economic and noneconomic damages, the limitation of a person's liability to his proportionate share of recoverable damages, the calculation of each person's proportionate share of damages, the reallocation of an uncollectible amount of damages among other liable parties, the

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establishment and exercise of a right of contribution, the effect of the provisions of the section on any right of subrogation or indemnity and the applicability of the provisions of the section to breaches of trust or of other fiduciary obligation; P.A. 87-227 substantially revised and rewrote section including, inter alia, revising the definitions, replacing "person" with "party" throughout section, making section applicable to actions for damage to property occurring on or after October 1, 1987, including settled or released persons in the attribution of percentages of negligence, requiring the jury or court to specify any findings of fact necessary for the court to specify recoverable economic damages and recoverable noneconomic damages, revising the method of reallocating an uncollectible amount of damages so that all recoverable economic damages are reallocated among the other defendants and the claimant is fully compensated for such recoverable economic damages, providing the total recovery by a party seeking contribution shall be limited to the amount paid by such party in excess of such party's proportionate share of the judgment, replacing provisions re when an action for contribution must be brought depending upon if a judgment has or has not been rendered with requirement that an action for contribution be brought within two years after the party seeking contribution has made the final payment in excess of his proportionate share of the claim and adding Subsec. (n) re the effect of a release, settlement or similar agreement on liability and the total award of damages; P.A. 88-364 made a technical change in Subsec. (g); P.A. 99-69 added Subsec. (o) prohibiting apportionment of liability or damages between parties liable for negligence and parties liable on any basis other than negligence and made technical changes for purposes of gender neutrality, effective May 27, 1999, and applicable to any civil action pending on or filed on or after August 11, 1998.

See Sec. 52-102b re addition of person as defendant for apportionment of liability purposes.

See Sec. 52-225a re reduction in economic damages in personal injury and wrongful death actions for collateral source payments.

See Sec. 52-225d re payment of damages in lump sum and periodic installments in personal injury, wrongful death and property damage actions.

Cited. 170 C. 495, 516 (Diss. Op.). Cited. 175 C. 112, 115. Section did not abrogate common law rule against contribution among joint tortfeasors, related only to modification of contributory negligence doctrine and of the doctrines of abolition, last clear chance and assumption of risk. 176 C. 523-528. Cited 179 C. 372, 374-376; 181 C. 515, 516; id., 650, 652. Cited. 182 C. 236, 237, 239, 241. Cited. 183 C. 473, 476. Cited. 184 C. 205, 212. Cited. 187 C. 339, 341. Cited. 188 C. 607, 615. Cited. 189 C. 601, 605. Cited. 190 C. 791, 797. Cited. 194 C. 645, 646. Cited. 196 C. 341, 353. Cited. 203 C. 607, 611. Cited. 205 C. 694, 702. P.A. 86-338 cited. 214 C. 1, 6, 7. Cited. 222 C. 775, 781, 782. Cited. 228 C. 441, 455. Cited. 231 C. 77-79, 89. Cited. 232 C. 559, 560, 583, 584, 586. Cited. 234 C. 660, 661, 664, 665, 668-670. Cited. 235 C. 107, 120, 121. Cited. 236 C. 625, 634. Cited. Id., 670, 673. Cited. 239 C. 798. Cited. 240 C. 694. Cited. 241 C. 399. Cited. 242 C. 169. Plain language of section provides that only negligent persons may be cited in by defendant for apportionment for liability purposes and, therefore, a person whose conduct was reckless, willful and wanton is not liable pursuant to this section and cannot be added for purposes of apportionment. 246 C. 223. Supreme Court extended this section as matter of common law to permit apportionment between a negligent and an intentional tortfeasor. Id. Apportionment principles of section do not apply where apportionment complaint rests on any basis other than negligence, including strict liability, of which product liability is simply a form. 253 C. 787. By enacting P.A. 99-69, Sec. 1(o), legislature merely clarified

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Sec.52-572h to preclude a common law right to apportionment between a negligent and intentional tortfeasor. 263 C. 358. Because statutes allow for apportionment among negligent defendants and because Connecticut is a comparative negligence jurisdiction, as indicated by Sec. 52-572o, the simpler and less confusing approach to cases where jury must determine which, among many, causes contributed to plaintiff's injury, is to couch the analysis in proximate cause rather than allowing defendants to raise a defense of superseding cause. Id., 424.

Cited. 6 CA 383, 389. Cited. 11 CA 1, 7. Cited. 14 CA 561, 569. Cited. 15 CA 392, 397, 401. Cited. 26 CA 509, 511- 514. Cited. 30 CA 327, 332. Cited. 33 CA 714, 717, 719, 720, 722. Cited. 37 CA 515, 523. Cited. 41 CA 61-63, 65. Cited. Id., 856, 860. Cited. 46 CA 18. Enactment of statute did not render general verdict rule inapplicable. 53 CA 399. Trial court should instruct jury that if it is unable to determine how much of plaintiff's damages is attributable to each of the three tortfeasors from separate motor vehicle accidents, jury may make a rough apportionment and if unable to do so, jury must apportion the damages equally among each party whose negligent actions caused injury to the plaintiff. 57 CA 134.

## **Tort Liability Issues**

The administrative agency regulations help keep people from violating statues. This is to protect situations such as property, boundaries and products being sold. Tort liabilities are Strict products liability for the commercial sale of defective products. In most states any retailer, wholesale or manufacturing seller who sells an unreasonably dangerous defective product that causes injury to a user at work or if it malfunctions this is going to cost them a pretty penny. The other tort liability is the design defect. The design was done by the manufacturer according to the standards, but the product injures a user due to its unsafe design. Lack of adequate testing inherently creates a dangerous product this can also be considered a design defect. The detent Plunger was not long enough and not wide enough. (Pagnattaro, pg301) In the article Revisiting Connecticut's Standard for Product Liability Design Defect Claims (Miller Eric internet) the design defect is what is the missing link sometimes in these cases.

## **The problem**

The ignition switch is not catching the way it should when the key is turned from the accessory mode to the start mode. When the key is turned it does turn but staying in that mode is the real issue. When that happens, the key will turn off the engine and the driver will lose control. The detent plunger was not long enough or wide enough to keep it in the slot. General motors knew about the situation and decided not to do anything about it. General Motors decided to ignore it. This could have save their company and it could have saved many lives.

## **This is the Timeline 2001:**

GM detects the defect during pre-production testing of the Saturn Ion.

2003: A service technician closes an inquiry into a stalling Saturn Ion after changing the key ring and noticing the problem was fixed.

2004: GM recognizes the defect again as the Chevrolet Cobalt replaces the Cavalier.

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The Chevrolet Cobalt was among more than 2 million GM cars recalled for a faulty ignition switch.

#### General Motors/AP

March 2005: GM rejects a proposal to fix the problem because it would be too costly and take too long.

May 2005: A GM engineer advises the company to redesign its key head, but the proposal is ultimately rejected.

May 24, 2005: GM posts a \$1.1 billion first-quarter loss, blaming it on union overhead and high gas prices harming SUV sales.

December 2005: GM sends dealers a bulletin stating the defect can occur when "the driver is short and has a large and/or heavy key chain ... the customer should be advised of this potential and should ... [remove] unessential items from their key chain."

July 29, 2005: Maryland resident Amber Marie Rose, 16, dies when her 2005 Chevrolet Cobalt crashes into a tree after the ignition switch shuts down the car's electrical system and the air bags fail to deploy.

December 2005: GM issues a service bulletin announcing the problem but does not issue a recall.

July 26, 2006: GM loses \$3.2 billion in the second quarter, absorbing costs of early retirement buyout packages to 30,000 blue collar workers.

March 2007: Safety regulators inform GM of the issues involved in Amber Rose's death; neither GM nor the safety regulators open a formal investigation.

April 2007: An investigation links the fatal crash of a 2005 Chevrolet Cobalt in Wisconsin to the ignition defect, but regulators do not conduct an investigation.

September 2007: A NHTSA official emails the agency's Office of Defects Investigation recommending a probe looking into the failure of air bags to deploy in crashes involving Chevrolet Cobalt's and Saturn Ions, prompted by 29 complaints, four fatal crashes and 14 field reports.

Nov. 17, 2007: The Office of Defects Investigation at NHTSA concludes that there is no correlation between the crashes and the failure of air bags to deploy, ending the proposed probe.

Dec. 12, 2008: The U.S. Senate votes to oppose a government bailout for GM, despite support from outgoing President George W. Bush and President-elect Barack Obama and GM's announcement that it's nearly out of cash and may not survive beyond 2009.

Dec. 18, 2008: President Bush announces bankruptcy is an option, if it's "orderly" and involves unions and other stakeholders.

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Dec. 19, 2008: Bush approves a bailout plan, giving GM and Chrysler \$13.4 billion in initial financing from the Troubled Asset Relief Program.

April 22, 2009: GM says it will not be able to make a June 1, 2009, debt payment.

April 24, 2009: GM says that it will scrap the Pontiac brand to invest more in Buick, Cadillac, Chevrolet and GMC.

Fritz Henderson, General Motors president and CEO, during a June 1, 2009, press conference to announce that GM will seek bankruptcy protection.

Stan Honda/AFP/Getty Images

June 1, 2009: GM files for Chapter 11 bankruptcy.

July 10, 2009: The U.S. Treasury purchases GM assets, giving the government primary ownership of the company.

February 2010: NHTSA again recommends a probe looking into problems with air bags in Cobalt's; ODI again decides that there is no correlation and drops the matter.

Oct. 26, 2010: Consumer Reports says GM is considered "reliable" based on scores from road tests and performance on crash tests.

2012: GM identifies four crashes and four corresponding fatalities (all involving 2004 Saturn Ions) along with six other injuries from four other crashes attributable to the defect.

Sept. 4, 2012: GM reports August 2012 sales were up 10 percent from the previous year, with Chevrolet passenger car sales up 25 percent.

June 2013: A deposition by a Cobalt program engineer says the company made a "business decision not to fix this problem," raising questions of whether GM consciously decided to launch the Cobalt despite knowing of a defect.

Dec. 9, 2013: Treasury Secretary Jacob Lew announces the government had sold the last of what was previously a 60 percent stake in GM, ending the bailout. The bailout had cost taxpayers \$10 billion on a \$49.5 billion investment.

End of 2013: GM determines that the faulty ignition switch is to blame for at least 31 crashes and 13 deaths.

Mary Barra, who became the CEO of General Motors in January 2014, is facing questions over how the company handled the ignition switch problem.

Carlos Osorio/AP

Jan. 15, 2014: Mary Barra becomes CEO of GM and the first woman to run a major automaker.

Jan. 31, 2014: Barra learns of the ignition switch defect, according to GM.

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Feb. 7, 2014: GM notifies NHTSA "that it determined that a defect, which relates to motor vehicle safety, exists in 619,122 cars."

Feb. 13, 2014: GM officially recalls 2005-2007 Chevrolet Cobalt's and 2007 Pontiac G5s.

Feb. 25, 2014: GM adds 748,024 more vehicles to the recall.

March 10, 2014: GM hires two law firms to look into the recall, with Anton "Tony" Valukas, who investigated Lehman Brothers after the firm's 2008 collapse, leading the internal probe.

March 17, 2014: GM recalls 1.55 million vans, sedans and sport utility vehicles

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