

GM allowed to tell ignition-switch jury about plaintiff's 'lies'

Judge urges parties to settle to cut 'our proverbial losses'



GM seeks to use the evidence to show ignition-switch plaintiff Robert Scheuer has a history of being dishonest.

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NEW YORK (Bloomberg) -- General Motors got a boost in the first trial over a deadly ignition-switch defect as a judge slammed plaintiffs' lawyers for failing to vet their client, an Oklahoma mail carrier accused by the carmaker of lying to the court.

U.S. District Judge Jesse Furman said Thursday that GM could show a jury evidence which he said would probably be "devastating" to the case of Robert Scheuer. He and his wife, Lisa, are accused by the car company of not telling the truth on the witness stand about why GM was to blame for the Scheuer family's eviction from their "dream house."

Furman accepted GM's claim that Robert Scheuer, 49, probably doctored a federal-government check stub to provide "proof of funds" to move into their home in 2014 -- an allegation that emerged as a side issue during the trial and now overshadows the car wreck at the center of the case.

The decision endangers the first of a handful of bellwether ignition-switch cases intended to help the carmaker and thousands of motorists in possible settlements and other litigation after GM admitted the flaw had affected millions of vehicles. Instead, the trial in U.S. District Court in Manhattan may end in disarray.

"Plaintiffs have only themselves to blame for the fact that this case has become such an outlier," Furman said after sending jurors home for the day. "Quite frankly, I would have thought counsel would do more due diligence before selecting this case for trial than obviously happened."

'Almost worthless'

The case was chosen as the first for trial by Robert Hilliard and Steve Berman, two of the top plaintiffs' lawyers in the U.S., who are leading the ignition-switch litigation. They haven't denied the allegations of forgery and perjury against their client.

Scheuer's lawsuit is now "almost worthless as a bellwether case," Furman said. "It might make sense to make this case go away." He urged the sides to settle, and agreed to meet privately with the parties later on Thursday to discuss his proposal.

"The house was a very small part of the case," Berman said in an e-mail. "The client told a plausible story -- even GM didn't follow up" after the deposition of Lisa Scheuer, months ago, the lawyer added. Berman said the case should focus on GM's defective cars and the fact that Scheuer's airbag didn't work when he needed it.

"If the GM allegations are accurate and the attorneys let themselves be conned by their client, it will be a huge embarrassment," said Erik Gordon, a business professor at the University of Michigan who isn't involved in the case. "They didn't do enough checking on their client's story."

Carl Tobias, a University of Richmond law professor who isn't involved in the litigation, said the case will now probably settle "for a small amount."

"It may be difficult for counsel to know everything in a client's background, and so issues like the ones here can surface in a trial," Tobias said. "I expect that all involved, but especially the judge, are frustrated because many resources have been devoted to trying the first bellwether."

Scheuer and his wife both hired criminal-defense attorneys this week after the carmaker accused them of lying about the reason for the eviction in September 2014, about four months after the accident.

Life-altering injury

Robert Scheuer claimed he suffered life-altering neck and back injuries after the airbag in his 2003 Saturn Ion failed to deploy when he hit a tree in May 2014. He claims an ignition defect disabled the airbag.

GM argues the wreck wasn't bad enough to trigger the airbag, and that Scheuer had suffered from severe neck and back pain for more than a decade before the crash.

The Scheuers testified the eviction from their home was GM's fault because Robert Scheuer suffered memory loss after the wreck and misplaced a check for a down

payment. GM said that after the trial started, the couple's real estate agent reached out with evidence of the alleged forgery.

GM sought to use the evidence to show that Scheuer has a history of dishonesty and to undermine his primary claim that a defective switch disabled the airbag.

"The evidence would seem to establish fairly definitively that his eviction and failure to close on the so-called house of their dreams" had "absolutely nothing whatsoever to do with the accident," Furman said Thursday.

Hilliard has said the forged-check claim distracts from the point of the trial, intended to hold GM accountable for an admitted defect.

Not aware

The Manhattan jury hasn't been made aware of the new claims. Jurors have already heard almost two weeks of evidence, including depositions from GM engineers and details of how Scheuer's car ran off an Oklahoma highway and smashed into the tree.

GM recalled 2.59 million cars due to the defect and has already paid more than \$2 billion in legal costs and settlements. Despite GM's admissions, the company is challenging liability in hundreds of individual cases.

According to GM, Robert Scheuer altered the original check by adding "\$441" to the original amount, \$430.72, making it appear to be \$441,430.72. The carmaker said he also altered the date and used postal service stickers from his job to make it appear the check had been mailed, when it hadn't.

GM wants the Scheuers' real estate agent to testify, as well as a forensic-technology expert. The company filed with the court dozens of exhibits purporting to back its claim, including text messages and e-mails between the Scheuers and the real estate agent, and an image of the allegedly doctored check stub.

In a statement on Thursday, GM said: "The new witness who came forward shared important information about the plaintiff's claims that the jury needs to hear, and we believe the court made the correct decision to allow the jury to hear evidence that Mr. and Mrs. Scheuer did not always tell the truth in their sworn testimony."