

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
Judge William J. Martínez

---

Courtroom Deputy: Deborah Hansen  
Court Reporter: Tamara Hoffschildt

Date: March 27, 2012

---

Civil Action No. 08-cv-00491-WJM-MEH

Counsel:

AMY BULLOCK, as an individual, as the next  
of kin and personal representative of JEFFREY  
BULLOCK, deceased, and as Parent and Next  
Friend of ADAM BULLOCK, CHELSEA  
BULLOCK, and MELISSA BULLOCK,

Michael J. Thomson

Plaintiff,

v.

DAIMLER TRUCKS NORTH AMERICA, LLC.,  
a limited liability company,

Peter F. Jones  
Darin J. Lang  
Leslie A. Kendrick

Defendant.

---

COURTROOM MINUTES

---

JURY TRIAL - DAY SEVEN

09:03 am. Court in Session - jury present

**DEFENDANT'S ELEVENTH WITNESS HARRY L. SMITH**

09:05 Direct (by Mr. Jones)

EXHIBITS IDENTIFIED, OFFERED AND RECEIVED:  
A-17

Defendant offers Dr. Harry Smith as an expert in biodynamics, occupant kinematics and injury causation.

Plaintiff objects.

**ORDERED:** Plaintiff's objection is overruled.

Dr. Smith is qualified to testify under Rule 702 as an expert witness and give expert testimony in the areas of biodynamics, occupant kinematics and injury causation.

EXHIBITS IDENTIFIED, OFFERED AND RECEIVED:  
A-72, except for pages 6 and 7

10:25 Jury excused

Defendant offers A-72, pages 6 and 7

Plaintiff objects.

EXHIBIT OFFERED AND REFUSED (objection sustained):  
A-72, pages 6 and 7

10:28 Court in Recess

10:46 Court in Session - with jury

**DEFENDANT'S ELEVENTH WITNESS HARRY L. SMITH**

10:46 Direct continued (by Mr. Jones)

10:58 Cross (by Mr. Thomson)

11:34 Redirect

11:37 - 11:41 Bench conference

EXHIBIT IDENTIFIED, OFFERED AND RECEIVED:  
Q

11:43 Defense Rests.

11:44 Jury excused until 9:30 tomorrow.

The Defendant renews its prior motions made at the conclusion of the Plaintiff's case for a directed verdict or to dismiss based on the inadequacy of the Plaintiff's proof – incorporating by reference, again, his argument entered on the record yesterday, as if fully set forth (by Mr. Jones).

Mr. Thomson incorporates by reference, again, his argument entered on the record yesterday, as if fully set forth.

Defendant's offer of proof regarding pages 6 and 7 of A-72 (by Mr. Jones)

Court's findings and conclusions entered on the record.

The Court finds and concludes as follows:

1. There is a legally sufficient evidentiary basis for a reasonable jury to find in favor of Plaintiff on both of her product liability claims;
2. Defendant is not entitled to judgment as a matter of law on Plaintiff's product liability claims;
3. There is not a legally sufficient evidentiary basis for a reasonable jury to find in favor of Plaintiff on her claim for exemplary damages; and
4. That Defendant is entitled to judgment as a matter of law on Plaintiff's claim for exemplary damages.

**ORDERED: Defendant's Rule 50 Motion for Judgment as a Matter of Law on Plaintiff's Product Defect Claim [ECF No. 416] is DENIED IN PART and DENIED AS MOOT IN PART.**

**Defendant's Rule 50 Motion for Judgment as a Matter of Law on Plaintiff's Claim for Exemplary Damages [ECF No. 415] is GRANTED.**

Court's comments

Closing arguments will be limited to 35 minutes each.

Mr. Thomson shall let the Court know by tomorrow morning how he wishes to divide the time for his closing. A two-minute warning will be given for each main closing; and a one minute warning for the Plaintiff's rebuttal.

At 8:15 tomorrow morning counsel should be present to receive the final set of jury instructions. Counsel will then have a half an hour to review them.

The charging conference will commence at 8:45.

12:23 p.m. Court in Recess  
Trial continued  
Time: 3 hours and 2 minutes