**Summary of Supreme Court of Virginia Opinion**

***Hyundai Motor Co., Ltd., et al. v. Duncan*, No. 140216**

On January 8, 2015, the Supreme Court of Virginia reversed a $14.140 million jury verdict against Hyundai and entered final judgment in favor of Hyundai. The Court held that the plaintiffs’ expert testimony, which was the sole support for plaintiffs’ liability theory, should not have been admitted by the trial court because it was merely the expert’s “ipse dixit assumption” and was without any evidentiary support or empirical analysis.

The appeal stemmed from a single car accident in which a teen-aged driver lost control of his 2008 Hyundai Tiburon. The Tiburon left the roadway and struck a tree on the driver’s side, causing the vehicle’s roof to deform downward and strike the driver’s head. The driver suffered a closed head injury. Plaintiffs claimed the Tiburon breached an implied warranty of merchantability because the side airbag sensor should have been placed at a specific location on the vehicle’s B-Pillar, rather than under the driver’s seat, and Hyundai’s failure to place the side airbag sensor in his proposed location allegedly rendered the Tiburon unreasonably dangerous.

Plaintiffs’ liability theory was supported solely by the expert testimony of Geoffrey Mahon. Mr. Mahon testified at both his pre-trial deposition and during trial that extensive analysis and testing were necessary to determine where an airbag sensor should be placed. Mr. Mahon stated that inches, and even increments smaller than inches, matter in the determination of the location of airbag sensors. Mr. Mahon opined that the side airbag sensor in the 2008 Hyundai Tiburon should have been on the B-Pillar in a location that was four to six inches away from one that Hyundai evaluated during the Tiburon’s development. Mr. Mahon conceded, however, that he performed no testing, analysis, or calculations to support this conclusion.

Concluding that Mr. Mahon’s testimony was without any evidentiary support, the Supreme Court of Virginia held that the trial court erred in allowing Mr. Mahon to testify. The Court stated:

In short, Mahon's opinion that the 2008 Tiburon was unreasonably dangerous was without sufficient evidentiary support because it was premised upon his assumption that the side airbag would have deployed if the sensor was at his proposed location – an assumption that clearly lacked a sufficient factual basis and disregarded the variables he acknowledged as bearing upon the sensor location determination.

Slip Op. at 11. Because the plaintiffs’ case was based solely on the speculative and erroneously admitted expert testimony of Mr. Mahon, the Court reversed the judgment of the trial court and entered final judgment in favor of Hyundai.

Justice Powell dissented from the six-justice majority on the expert admissibility issue, but she stated that the trial court should have been reversed for incorrectly failing to instruct the jury regarding compliance with the Federal Motor Vehicle Safety Standards. Justice Powell stated that she would remand the case for a new trial.

Hyundai was represented by Tracy Walker and Robert Loftin of McGuireWoods, LLP, Harlan Prater of Lightfoot, Franklin & White, LLC, Tim Kirtner of Gilmer, Sadler, Ingram, Sutherland & Hutton, LLP, and Andrew Cooke of Flaherty Sensabaugh & Bonasso, PLLC. The plaintiffs were represented by Steve Emmert of Sykes, Bourdon, Ahern & Levy, PC, Ari Casper of The Casper Firm, LLC, and William Wallace of Johnson, Ayers & Matthews, PLC.