



## Richard and Laura Hart and Robert and Jean Jacobsen vs. Kawasaki Heavy Industries Ltd., Kawasaki Motors Corp. USA, Kawasaki Motors Manufacturing Corp. USA, Main, Marine & Ski, Inc. and Sentry Insurance

By: dmc-admin September 7, 2009 1:00 am

PERSONAL INJURY/PRODUCT LIABILITY: \$5.5 MILLION

Injuries claimed: Fracture dislocation of spinal cord at T12-L1 and other spinal cord injuries causing paraplegia

Court: Racine County Circuit Court

Case name: Richard and Laura Hart and Robert and Jean Jacobsen vs. Kawasaki Heavy Industries Ltd., Kawasaki Motors Corp. USA, Kawasaki Motors Manufacturing Corp. USA, Main, Marine & Ski, Inc. and Sentry Insurance

Case number: 07CV1548

Judge: Joseph McDevitt, mediator

Verdict & settlement: Settlement in favor of plaintiff

Amount: \$5.5 Million

Date of incident: July 15, 2005

Disposition date: July 13, 2009

Original filing date: June 6, 2007

Plaintiffs attorney (firm): Patrick O. Dunphy and Sarah F. Kaas, Cannon & Dunphy, SC, Brookfield

Defendants attorney (firm): Daniel J. LaFave, Christopher Meadows, Quarles & Brady, Milwaukee, Defense Counsel for Kawasaki Defendants; Kevin A. Christensen, Leib & Katt, S.C., Milwaukee, Defense counsel for Main, Marine & Ski and Sentry Insurance; Thomas M. Devine, Hostak Henzl & Bichler, SC, Racine, Defense Counsel for Robert P. Jacobsen on underlying liability coverage, Progressive Northern Insurance Co.; Frederick J. Strampe, Borgelt, Powell, Peterson & Frauen, Milwaukee, Defense Counsel for Robert P. Jacobsen on excess liability coverage, Chubb Insurance

Plaintiffs expert witnesses: Gregory Davis, Marine Engineer, Lisle, Ill.; Greg Binversie, Engineer, Grayslake, Ill.; Phillip Dindinger, Engineer, New Berlin; Michael Burleson, Engineer, Tyler, Texas; Anand R. Shah, Materials Engineer, Naperville, Ill.

Defendants expert witnesses: J. Paul Frantz, Engineer, Ann Arbor, MI; Kevin C. Breen, Engineer, Fort Myers, Fla.; Robert K. Taylor, Engineer, Novi, MI; Donald E. Duvall, Engineer, Aurora, Ill.

Plaintiff counsel's summary of the facts: Plaintiff Richard Hart was an invited guest at the Eagle Lake home of Robert Jacobsen, a business associate, on July 15, 2005. While Mr. Hart was seated on Jacobsen's 1998 Kawasaki Sport Tourer Jet Ski, Mr. Jacobsen pressed the start button and the Jet Ski exploded, causing Mr. Hart to be propelled into the air and land on a nearby pier, resulting in a fracture dislocation of Mr. Hart's spinal cord at T12-L1 and other spinal cord injury causing paraplegia. Mr. Jacobsen also sustained personal injuries.

A post-explosion inspection revealed that the primary fuel pump diaphragm of the Jet Ski was torn. Plaintiffs' theory was that an earlier Kawasaki recall performed on the fuel system of the Jet Ski caused the primary fuel pump

diaphragm to contact the aluminum cover plate of the fuel pump, causing a fatigue failure in the diaphragm, and causing gasoline to leak into the hull of the Jet Ski while it sat on a lift for several weeks prior to the accident. As a result of a loose battery cable, when the Jet Ski was started a spark from the battery-which was not isolated, but was located in the engine compartment of the Jet Ski-ignited accumulated flammable vapors inside the hull of the jet ski, causing the explosion. Kawasaki's theory was that the tear in the fuel pump diaphragm was caused by the explosion.

Mr. and Mrs. Hart and Mr. Jacobsen filed suit as co-plaintiffs. Mr. Jacobsen was represented by James A. Pitts. The manufacturer, distributor and supplier of the Jet Ski, all Kawasaki entities, were named as defendants, as was Main, Marine & Ski, the dealership that sold Jacobsen the Jet Ski. Plaintiffs alleged product liability and negligence. Plaintiff Hart also cross-claimed against Jacobsen, who was named as a co-plaintiff on the theory that he was negligent for failing to properly install the battery and ventilate the Jet Ski prior to use as instructed in the owner's manual.

Mr. Hart had \$506,244.44 in past medical expenses, \$33,546.72 in past wage loss, \$1.18 in future life care expenses, and \$1.45 in future lost earning capacity. Defendants' vocational expert opined that the present value of Mr. Hart's lost earning capacity was \$313,890. Progressive tendered its underlying liability limits of \$500,000 on behalf of Jacobsen early in the case. The Hart plaintiffs settled for an additional \$5.0 million as follows: Kawasaki defendants: \$2.5 million; Jacobsen: \$2.0 million, Main Marine/Sentry: \$500,000.

#### ONE COMMENT



*Chad Ray*

March 20, 2016 at 9:43 pm

I can't believe this! Our Jet ski exploded this weekend and fractured my husbands vertebrae! Could have been a lot worse I see! Shame on Kawasaki for not recalling these dangerous faulty fuel tanks!!!! I will be contacted a lawyer too!