

ALTERATIONS NOT INCLUDED

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To many collectors, the true test of a classic car is its authenticity—how accurately it reflects the way it was when it was first built. In a sense, the law takes a similarly dim view of post-manufacture modifications, as subsequent alterations by a purchaser or owner can undermine a plaintiff's claims in a "products liability" lawsuit. This was the lesson of *Korando v. Uniroyal Goodrich Tire Co.*, decided June 16, 1994, by the Supreme Court of Illinois.

According to the court, Todd Frazer had been driving his 1974 Ford Maverick with his brother Darrell and Kenneth Rice riding as passengers. While the Maverick was on Illinois Route 4, the tread and top belt of the right rear steel-belted radial tire separated from the bottom belt. The Maverick skidded and went off the roadway, where it collided with a tree, vaulted into the air, and landed upside down in a creek. Darrell and Todd died as a result of injuries sustained in the accident, and Rice suffered a broken neck.

The tire involved in the accident had been manufactured by Uniroyal in 1980. After its purchase and prior to the accident, the tire had suffered three punctures, which were repaired with patches and a plug. Additionally, the beads of the tire had been damaged; an inner tube had then been placed in the tire to ensure that it retained air.

Todd and Darrell's mother Judy Korando brought a products liability action against Uniroyal under the doctrine of "strict liability." She contended that Uniroyal had defectively manufactured the tire, such that it was in an unreasonably dangerous condition when it left the company's control. She claimed that the defective tire was the "proximate" or legal cause of the accident. (Rice also sued Uniroyal but settled prior to trial.)

At trial, Korando presented witnesses who testified, among other things, that

the accident was caused by tire failure, resulting from a defect in manufacturing. In response, Uniroyal put on witnesses who testified, among other things, that the tread separation occurred as a result of a prior impact to the tire that had damaged the adhesive bond between the two belts. Uniroyal's expert further explained that the tire was in a weakened condition before that impact damage occurred since the adhesive system of the tire had already been degraded by three punctures. After that impact damage, the separation in the tire moved and grew such that the tread was ultimately torn apart by traction force. Thus, the witness testified that the weakened condition of the tire, coupled with the speed at which Todd had been driving the Maverick at the time, had contributed to the final tread separation.

The jury ruled for Uniroyal and the trial court entered judgment for the company. Korando appealed. The intermediate appellate court reversed the lower court and ordered a new trial. Uniroyal then appealed that decision to the Supreme Court of Illinois, which finally ruled in the company's favor.

The Supreme Court began its analysis by noting that, to recover on a strict products liability claim, a plaintiff must prove: (1) that the injury or damage resulted from a condition of the product manufactured by the defendant; (2) that the condition was an unreasonably dangerous one; and (3) that the condition existed at the time the product left the manufacturer's control. The court noted that evidence of substantial alteration of the tire after it left the manufacturer was relevant to whether the claimed defect existed at the time the product was made. According to the court, "[a] defendant's claim of substantial alteration to a product...denies that an unreasonably dangerous condition of the product existed when it left the manufacturer's con-

trol.... Additionally, we find that evidence relating to a substantial alteration in the condition of a product is relevant in determining whether the plaintiff has met his or her burden of proof with respect to the existence of the manufacturing defect. It is recognized that where a substantial alteration is made to the product, it may defeat the plaintiff's claim that the defective condition existed at the time it left the manufacturer's control."

The court ruled that there was sufficient evidence at trial to support the jury's finding for Uniroyal. Uniroyal had presented evidence that the tread separation was due not to a manufacturing defect, but rather to the prior impact and repairs to the tire that damaged its adhesion. The court found that such evidence regarding the condition of the tire prior to the accident was relevant to whether the tire had undergone substantial alterations. It therefore reversed the decision of the appellate court and affirmed the ruling of the trial court for Uniroyal.

Korando's lesson that substantial post-sale alterations by a purchaser or owner can undermine a products liability claim obviously makes sense. It would be illogical and unfair to hold a manufacturer responsible for modifications made by others after a product left its control.

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