



OFFICE LOCATION

Ankin Law Office
162 W Grand Ave
Chicago, IL 60654

Tel: 312-346-8780
Fax: 312-346-8781

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Illinois Court Holds Expert Testimony Required for Strict Liability Claim

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The United States District Court for the Northern District of Illinois, in *Show v. Ford Motor Company*, No. 08 C 3081, considered the issue of whether, in the absence of expert testimony, the plaintiffs established a prima facie case for strict liability against an automobile manufacturer.

In *Show*, the plaintiffs, a driver and passenger who were injured in a car accident, brought a products liability action against vehicle manufacturer alleging strict liability and negligence claims. In their Complaint they asserted that driver's vehicle rolled over after a low-speed collision with another car because it was defective and unreasonably dangerous.

At issue was whether the defendant's motion for summary judgment should be granted. The motion was based on the defendant's assertion that the plaintiffs were required disclose an expert witness who would testify regarding the defective condition of the vehicle.

The plaintiffs disclosed two expert witnesses, one who would testify that the injuries were caused by the force of the roll over accident and another who would testify regarding loss of income due to the injuries. The plaintiffs claimed that an additional expert regarding the defective condition of the vehicle was unnecessary since they were proceeding under the "consumer expectation" test to prove their case.

The Court disagreed with the plaintiffs, concluding that because their claim involved technical knowledge beyond the common knowledge and experience of jurors, expert testimony regarding the defect was required:

Therefore, to make out a prima facie case of strict liability under the consumer-expectation test involving a complex product and an



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intervening event, Plaintiffs need a qualified expert to testify to a defective condition in the Explorer at the time it left Defendant's control, that caused it to roll over under these circumstances. Despite numerous discovery extensions, Plaintiffs have only offered experts who will testify that Show's injuries were caused by the forces of the rollover and that he sustained a loss of income as a result. Discovery has now closed, and Plaintiffs will not be given additional extensions. Therefore, Plaintiffs have failed to produce sufficient evidence to establish a prima facie case for their strict liability claims, and summary judgment is warranted on these claims.

This was an unfortunate outcome for the plaintiffs in this matter. However, this decision is worthy of note since it offers important guidance to plaintiffs counsel who litigate product liability matters.

Howard Ankin of Ankin Law Office LLC (www.ankinlaw.com) specializes in [workers' compensation](#) and [personal injury law](#). Mr. Ankin can be reached at (312) 346-8780 and howard@ankinlaw.com.