

Car seat fails to protect child in auto collision

Seven-year-old suffers catastrophic spinal cord injury and permanent paralysis

Early one morning, Jane Smith was driving her twin daughters to school in the family minivan. Seven-year-old twin Darla sat in the second row of seats behind her mother, and twin Debbie sat in a booster seat in the third row on the passenger side. (Not their real names.) While driving, a large sedan slammed into the driver's side of the minivan sending it spinning in a circle. After the minivan came to a stop, Jane anxiously checked on her children. Darla appeared okay. Debbie appeared to be still seated in her booster seat but leaning over toward the impact side of the vehicle.

Bystanders called for emergency response and paramedics/EMTs, police, and other responders arrived quickly. According to the responders, the driver and passengers were all properly seated and properly wearing seat belts. Jane and Darla were miraculously unharmed. When paramedics attempted to remove Debbie from the minivan, they found that as a result of the driver's side impact, Debbie's shoulder had slipped out of the shoulder belt. She was then only secured by the lap belt. At the collision, her upper torso had been forcefully thrown over the armrest which, acting as a fulcrum, snapped her spinal cord. Debbie had suffered a fracture to her spinal cord and was paralyzed.

All accidents that result in death or serious injury for persons involved are traumatic, disrupting, and, many times, life changing. In this instance, trauma struck an entire family. When the twins, Debbie and Darla, had reached school age, their grandmother, Alice Smith, went shopping for two child safety car seats for her daughter Jane to use in the minivan. Jane, a single mom with twin girls, was grateful for the help. They thought that the twins would soon transition from the five-point harness mechanism used for younger, smaller children and be eligible for booster seats. Alice researched websites for companies manufacturing and selling such car seats. Concerned about safety and reliability, Alice focused on manufacturers reporting their efforts to ensure that safety was a primary goal of their products. She researched



numerous products and reviewed marketing information provided by the manufacturers.

One product stood out for Alice: the XYZ Seat manufactured by Child Seat, Inc. (not its real name). The XYZ Seat was a belt-positioning booster seat. Packaging and other marketing materials conspicuously displayed statements that described the XYZ Seat as "side impact tested" and designed to provide restraint in a side impact. The packaging and marketing also made various allegations that the seat met or exceeded federal regulations even though there are no regulations for car seats related to side impact collisions. Alice was sold on the product and bought seats for the protection of her two granddaughters. The marketing of the XYZ Seat proved to be tragically false.

As a result of the automobile crash and the failure of the car seat to provide protection, Debbie's injuries rendered her a complete, high-level paraplegic. She suffers from problems with bladder and bowel functions in addition to her other limitations. She is confined to a wheelchair – for life. She requires assistance 24 hours a day, seven days a week. There are few events for children as challenging as these conditions. Long-term physical, emotional, and economic consequences are enormous. Debbie will be left out of physical activities at school, and beyond school, and will require significant medical care, accommodations, *(Continued on page eight.)*

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and special needs. She faces clear limitations for independent living and employment.

For a few years following the accident, the Brown and Smith family struggled through the issues of Debbie's medical evaluations, care, accommodations, physical therapy, and expenses. Wondering why the new child car seats had failed to protect Debbie in the accident, Alice contacted Searcy Denney attorneys **Chris Searcy**, **Carter Scott**, and **Jim Gustafson** and asked if they would help determine accountability for the product failures that led to the damage their family was suffering.

Mr. Searcy, Mr. Scott, and Mr. Gustafson conducted significant discovery and engaged experts from across the United States. As a result, they established that Child Seat, Inc., had concealed information about the decrease in safety when transitioning a child from a product using a five-point harness mechanism to use of a booster seat arrangement. Notably, the manufacturer provided information in manuals for other child seats about when to transition a child from a five-point harness seat to a booster seat but did not provide this critical safety information to purchasers of the XYZ Seat. The company also fraudulently misrepresented and concealed information regarding the XYZ Seats' side impact tests, despite knowing that the seat provided zero restraint in such impacts and that it was not even designed to provide side impact restraint.

On the eve of trial, the parties reached a confidential substantial settlement for the minor child. Debbie is strong and determined and will endure her changed life. Her family will support her and will adapt to their changed lives. Cases such as this one will provide motivation to manufacturers to fully inform consumers and not hide poor engineering for the sake of sales. ♦

Accolades



Mariano Garcia is an Advisor to the Palm Beach County Hispanic Bar Association. **Juan Diaz** was recently selected as president-elect of PBCHBA. Paralegal **Olga Patterson** (presently treasurer of PBCHBA) was selected to be a member of PBCHBA's Board of Directors. **Searcy Denney** is a proud annual and top sponsor for PBCHBA and will continue to support the organization and its leadership. ♦



The Palm Beach County Bar Association recently announced that **Andrea Lewis** is president-elect of PBCBA for fiscal year 2023-2024. **Victoria Mesa-Estrada** was selected as a member of the PBCBA's Board of Directors. Both attorneys will be sworn in at the June 3, 2023, Installation Banquet and will take their offices July 1. ♦



Jordan Dulcie was recently selected President-Elect of the Florida Justice Association's Young Lawyers Section. His term will begin late summer. ♦



Lindsey Reinhart was selected as a member of the Board of Directors for the Literacy Coalition of Palm Beach County. She will serve a one-year term. ♦



In February 2023, **Adam Hecht** was elected to the Board of Directors of the Dreyfoos School of the Arts Foundation. The School provides an outstanding arts-centered education, in concert with a strong academic program. ♦



In January 2023, **Katie Kiziah** was re-elected to the Palm Beach County Justice Association's Board of Directors for a two-year term. Ms. Kiziah will also serve as chair of PBCJA's Women's Caucus. ♦

In April 2023, Judge Mary Rowland of the U.S. District Court, Northern District of Illinois, appointed Ms. Kiziah to the Leadership Development Committee addressing multi-district litigation involving sales practices and product liability of hair relaxers. ♦