

FOR IMMEDIATE RELEASE

November 19, 1999

COURT URGED TO BAR "NO AIRBAG" PRODUCT LIABILITY SUITS

(Geier v. American Honda Motor Co., No. 98-1811)

The Washington Legal Foundation (WLF) this week urged the U.S. Supreme Court to bar product liability suits against car manufacturers who, in compliance with federal automobile safety standards, installed airbags in only a portion of new cars made in the 1980s and early 1990s.

In a brief filed in *Geier v. American Honda Motor Co.*, WLF argued that to allow such suits to proceed under state law would undermine federal safety policies and would expose manufacturers to potentially ruinous damage awards.

The case involves a District of Columbia woman, Alexis Geier, who was seriously injured in 1992 when she crashed her 1987 Honda Accord into a tree. Her car was not equipped with an airbag. Her car was equipped with seatbelts, but she was not belted at the time of the accident. Ms. Geier filed a product liability action against Honda, claiming that her car was defectively designed because it did not have an airbag; she claimed that had her car been so equipped, her injuries would have been far less severe. The issue before the Supreme Court is whether such product liability suits are preempted by federal law.

In its brief, WLF argued that Ms. Geier's suit is preempted by federal law because it stands as "an obstacle to the accomplishment and execution of the full purposes and objectives of Congress." WLF noted that Congress has delegated to the Department of Transportation (DOT) the responsibility for promulgating motor vehicle safety standards and that in 1984 DOT adopted a standard that made clear that manufacturers were *not* required to install airbags in all cars. WLF argued that DOT was not merely establishing *minimum* safety standards that states were free to choose to exceed; WLF argued that DOT did not want airbags installed in all cars in the years following 1984 because (due to shortcomings in airbag technology) DOT had determined that universal installation of airbags would lead to *decreased* safety. WLF argued that state regulations that (as here) conflict with federal law are automatically preempted under the

Constitution's Supremacy Clause.

WLF also argued that tort suits filed in state courts are as subject to federal preemption as are state statutes or administrative regulations. WLF argued that state regulation can be as effectively asserted through an award of damages in a lawsuit as through other forms of preventive relief. WLF further argued that although plaintiffs in tort suits typically are limited to monetary awards and cannot, for example, obtain orders directing that a product's design be changed, the obligation to pay compensation can be (and often is designed to be) a potent method of governing future conduct. To allow Ms. Geier's suit to go forward would be no different than allowing states to pass laws requiring airbags in all cars, WLF argued.

WLF is a public interest law and policy center with supporters in all 50 states. It devotes a significant portion of its resources to promoting civil justice reform, including efforts to rein in overly expansive theories of tort liability. WLF filed its brief with the pro bono assistance of Lawrence S. Ebner and Monica A. Aquino of the Washington, D.C. law firm of McKenna & Cuneo, L.L.P.

* * *

For further information, contact WLF Chief Counsel Richard Samp at (202) 588-0302.