# Jury Deliberation Civil Task II

Please read **all sections** of this document.

First, read “Case Background” and “Jury Instructions.” Then, answer the questions using the “Verdict Form” to determine your final verdict.

Remember, **you are not allowed to search on the Internet for any additional materials**.

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# Case Background

**Gregory and Andrew Johnson** were injured in a two-car accident on March 12, 1988, which occurred on Route 2 in Marshall County. At the time of the accident the boys were riding in the back seat of a 1978 Oldsmobile which was being driven by their father. The accident occurred when a MG convertible, driven by Bradley Bland, crossed the center line and hit the Johnsons' car head on. Both drivers were killed. The boys' mother, who was a passenger in the front seat of the 1978 Oldsmobile, was also injured.

**Gregory and Andrew contend that their injuries were more severe because of the lap-only belts they had on than the injuries would have been had the 1978 Oldsmobile been equipped with a lap and shoulder restraint system in the rear seat.** Andrew contends that his broken teeth, broken nose, and blow-out fracture of his left eye occurred when he jackknifed over his lap belt and hit his head. Gregory contends that his lap belt severed his stomach muscles, sliced through his large and small intestines and fractured his spine. Gregory is confined to a wheelchair for the most part and has a colostomy.

Gregory and Andrew filed a product liability action against the Estate of Bradley Bland, State Farm Mutual Automobile Insurance Company (hereinafter State Farm) (the Johnson's underinsurance carrier), GMC, and others. Before the trial, the Johnsons received a settlement from the liability insurer for Bradley Bland. The Johnsons also received a settlement from State Farm, their underinsurance carrier, before the trial.

The Johnsons proceeded to trial with their crashworthiness case on three theories: strict liability, negligence, and implied warranty. The Johnsons argued that the lap-only belts were defective since the lap/shoulder belts were more effective and that GMC knew of this defect when the 1978 Oldsmobile was manufactured. The Johnsons also alleged that GMC failed to warn the car owners of the defect.

GMC contends that the evidence showed that there was no requirement by the National Highway Transportation Safety Administration for the Oldsmobile to be equipped with rear seat lap and shoulder belts in 1978. GMC points out that the National Highway Transportation Safety Administration never issued a recall or warning regarding rear restraint systems. In fact, it was not until 1990 that lap and shoulder belts were required in the rear seats of all new cars sold in the United States.

GMC argues that the use of a combination lap and shoulder restraint system in the rear seat was merely a safety improvement, and manufacturers should not be made responsible to warn of all safety improvements which occur through the development of technology and research. For instance, an expert stated that prior to 1978, GMC sold automobiles overseas which had lap and shoulder belts in the rear seat.

The evidence at trial further indicated that the medical community, scientific community and automobile manufacturers were aware that the use of lap and shoulder belts in the rear would reduce injuries, and that the lap-only belts did cause spinal and abdominal injuries. In fact, GMC wrote a letter to the National Highway Traffic Safety Administration in 1973 in which GMC noted that lap belts reduced injuries by 17% whereas lap and shoulder belts reduced injuries by 52%.See footnote 10 Therefore, there was evidence that GMC knew or should have known in 1978 that the lap- only belts caused serious injuries which may have been prevented by the use of a shoulder and lap belt combination.

GMC presented evidence which indicated that a concern in 1978 was that the lap and shoulder belt combination could cause injuries, particularly with children. Also, GMC presented evidence that not many people in the United States wore any type of safety restraining device in the 1970's. Therefore, car manufacturers did not see a need to install more equipment which would not be used.

# Jury Instructions

## Crashworthiness

**With reference to a crashworthiness case, you are to bear in mind that the injuries resulting from the initial collision need be distinguished from those which are alleged to have occurred or to have followed due to any alleged defect rendering the vehicle uncrashworthy.** In this case, the first collision occurred when the red MG driven by Bradley Bland went out of control, crossed the center line and collided head-on with the Johnson vehicle.

On the other hand, the manufacturer would not be responsible for all injuries resulting from the collision. **The Plaintiffs must first establish that the alleged defect was a factor in causing some aspect of Plaintiffs' injuries.** If the alleged defect was not a factor, Plaintiffs may not recover from the manufacturer. If the alleged defect is proven by Plaintiffs by a preponderance of the evidence to have been a factor in causing Plaintiffs' injuries, then the manufacturer can limit its liability by showing that Plaintiffs' injuries are capable of apportionment between the initial collision and any injury enhanced by the alleged defect. Then the manufacturer is only liable for that portion of Plaintiffs' damages that are over and above that which would probably have occurred absent the alleged defect. Furthermore, Defendant can only be held liable for such enhanced injuries which were proximately caused by the alleged defect in the design of the product.

In assessing damages you may omit, if you choose, those damages which you believe that the defendant has proven were not enhanced or increased by the absence of a shoulder belt in the vehicle.

## Negligence Theory

The Plaintiffs also allege that the automobile contained a defect which contributed to Plaintiff's injuries beyond those which would have otherwise occurred in the collision. This legal theory is often referred to as 'failure to warn[.]'

**Specifically, failure to warn refers to the allegation that a product is defective because it does not contain adequate labels, instructions, or warnings.**

As to the theory of crashworthiness or enhanced injury, however; in order for Plaintiffs to prove that the product was defective because of a lack of labels, instruction, or warnings, the product is to be tested by what the reasonably, prudent manufacturer should have done, having in mind the general state of the art of the manufacturing process, including design, labels, and warnings, as it relates to economic costs, at the time the product was made.

If you determine from the evidence that General Motors knew or ought to have known in 1978 that, by reason of lack of lap shoulder belts in the rear seat of the Oldsmobile was not reasonably safe, absent an adequate warning; that such warning was feasible; that it was not given, and that it was this feature of the product that caused the injuries, your verdict may be against General Motors and in favor of the Johnsons.

If you find from the evidence that the rear seat lap belts alleged to have caused Plaintiff's injuries, by reason of a defect present when it left the hands of General Motors, was not reasonably safe for its normal use and that the Defendant failed to exercise due care in its design and manufacture, and if you also find that the defect was a substantial factor in causing the injuries, you may find for the Plaintiff, Andrew and Gregory Johnson.

If you believe from the evidence that General Motors had reason to know of risks in use of the product, risks which only came to its knowledge after the product had left its control and that it failed to take steps that a reasonably, prudent manufacturer would take to warn users of these risks, you may find them to be liable for any resulting harm.

## Instruction regarding interpretation of evidence

In the course of the trial of this lawsuit, evidence has been introduced to the effect that the vehicle, manufactured and sold by Defendant, complied with certain Federal Motor Vehicle Safety Standards established by the National Highway Transportation Safety Administration.

With respect to those Federal Motor Vehicle Safety Standards, you are instructed that compliance by a manufacturer with federal standards, existing at the time the product was manufactured and prescribing standards for design, inspection, testing, or manufacture of a

product, is a factor which you may take into consideration in determining whether the car was defective. It is not of itself conclusive either way.

I charge you that industry standards are not conclusive as to ordinary care and design or manufacture, but rather are admissible evidence for your consideration, together with all the other evidence in this case.

## Verdict Form

**When you are finished with reading the case information and jury instructions, please use the following form to guide your final verdict.**

1. Do you find that the 1978 Oldsmobile was defective, either due to the lack of lap- shoulder belts in the rear seat or due to General Motors' failure to warn about the risks of lap-only belts?

Yes _____
No _____

2. Do you find that General Motors was negligent?

Yes _____
No _____

3. Do you find that General Motors breached its implied warranty?

Yes _____
No _____

IF YOUR ANSWER TO ALL THREE QUESTIONS ABOVE IS NO, THEN YOU NEED PROCEED NO FURTHER. **AT THIS POINT, YOUR FINAL VERDICT SHOULD BE NO.**

IF YOU HAVE ANSWERED YES TO ANY ONE OF THE THREE QUESTIONS ABOVE, THEN PROCEED TO QUESTION NO. 4.

4. Do you find from a preponderance of the evidence that this defect or negligence or breach of warranty proximately caused the injuries of which Gregory and Andrew Johnson complain?

Yes _____
No _____

**AT THIS POINT, YOUR FINAL VERDICT IS YOUR ANSWER TO QUESTION 4.**