

# FRACTIOUS JURY FORCES MISTRIAL IN AIRBAG CASE

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**O**ne juror accused another of sneaking a newspaper article into the jury room as they fought over the multimillion-dollar civil case. The other juror was ready to write a note to the judge complaining she was harassed during deliberations because she wouldn't side with the majority.

Bad blood from a bitterly divided Broward Circuit Court jury spilled out into the courtroom Thursday as a judge had to declare a mistrial in the case of a girl left paralyzed after an airbag nearly severed her spine. The girl's family sought more than \$110 million from **Honda Motor Co.** in what turned out to be one of Broward County's longest and costliest trials this year.

Four jurors wanted to award Ashley Moore, 13, and her family at least \$36 million and up to \$70 million, but the other two jurors thought Honda shouldn't be held responsible for the girl's injuries and should pay nothing. Ashley lost all feeling below her ears after the passenger-side airbag of her mother's **Acura** went off in a March 18, 1998, crash just blocks from their Tallahassee home. The Acura line is built by Honda.

Jurors said in post-trial interviews that their division became apparent early in the four days of deliberations, nerves already frayed after spending three months in the courtroom for a trial that was only supposed to last 20 days.

"Ashley Moore deserves the best, and she should have the best jury, and we were not it," juror Janice Hudak said. She wept as Broward Circuit Judge Thomas M. Lynch IV declared the mistrial.

Juror George Hoopes, who wanted to award the family almost \$53 million, apologized to Ashley's mother outside the courtroom. He described what happened in the jury room as "a terrible experience" he will never forget.

Jurors informed Lynch on Tuesday there was no way they could resolve the split, leaving the judge prepared to declare a hung jury when court convened Thursday. But before Lynch could make his decision, Hudak gave him a typed letter accusing the juror most staunchly siding with Honda of bringing a newspaper article on car design into deliberations.

Hudak accused the same juror of making a comment during jury selection that she had looked up information on Ashley's family on the Internet.

After receiving Hudak's letter, Lynch immediately declared a mistrial and asked each juror to fill out blank verdict forms on how they would have decided the case.

The juror accused of misconduct could not be reached for comment Thursday, but in written comments to the judge after the proceedings, she alleged she had been "personally threatened and intimidated" by another juror.

"That juror also wished harm on my family, which I found to be extremely stressful," wrote the juror siding with Honda. "I had decided that if I had to stay in the jury room one more day, I would have written a note complaining of harassment."

Both the Moores and Honda vowed that if they need to go through a second trial, they will be ready. It will be a costly proposition. The family's attorneys acknowledged Thursday they spent more than \$1 million preparing for trial.

"It's hard to sit and think day in and day out for three months about what went on six years ago," said Lisa Moore, Ashley's mother. "David [Ashley's father] and I will do whatever it takes to take care of her for the rest of her life. If it means coming back to trial, it means coming back to trial ... living through the nightmare yet again."

The Moore family moved from Tallahassee to Pinecrest in Miami-Dade County after the crash. They were able to bring the case in Broward County because Honda's American subsidiary is registered with the state in Plantation.

Ashley appeared a few times during the trial, trailed by a nurse and her helper dog, Phantom, as her mechanized wheelchair whirred into the courtroom. She didn't testify, but jurors watched a video narrated by her describing a day of her life, showing just how physically dependent she is on others.

The family's attorneys argued Honda knew as early as the 1980s the threat that passenger-side airbags posed to children, yet didn't act on the information. The Moores bought their car before 1997, when the federal government mandated warning labels in cars alerting consumers not to sit children in front of airbags, argued the Moores' attorneys, Chris Searcy and David Sales

Honda countered that while millions of its cars have passenger-side airbags, Ashley is the only person who has ever been seriously injured, and there have been no fatalities.

"Honda has always had a relentless commitment to safety and is extremely proud of the safety of its products, and the integrity of the engineering behind them," American Honda Motor Co. said Thursday in a prepared statement. "In particular, our unique airbag design and performance has consistently won praise from consumer groups and the federal government."

The four jurors siding with the Moores each felt that at the very least, Honda negligently failed to have an adequate airbag warning in the Acura.

Jury forewoman Diane Levine said Honda's warning was "too little, too late."

"But for the airbag, there would be no tragedy, no injury," she wrote. "The airbag was a product in a Honda vehicle. Therefore, they do bear a responsibility to assist the Moore family."

Searcy said he hopes the retrial will happen within the next year.

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