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Class counsel say 'rats!' to California court's rejection of design-based warranty claims

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Following the dismissal of *Preston v. American Honda Motor Co.*, No. 18-cv-38 (C.D. Cal. May 24, 2018), a California federal judge on June 11 dismissed yet another putative class action, *Heber v. Toyota Motor Sales USA Inc.*, No. 16-cv-1525 (C.D. Cal. June 11, 2018), against an automaker alleging that class vehicles were sold with soy-coated electrical wires that enticed rats to gnaw through them — rendering the vehicles inoperable.

In rejecting plaintiffs' unconventional claim, Judge Andrew J. Guilford reinforced two important points that present obstacles to putative automotive class actions. First, express warranties do not apply to design defects. Second, courts are increasingly reluctant to hold automakers accountable under the implied warranty of merchantability for damage caused by external forces.

The plaintiffs in *Heber* alleged that Toyota failed to disclose to consumers that it made a production line switch to soy-coated wires, increasing the likelihood that the class vehicles would incur rodent-inflicted damage.

Bringing claims for breach of express and implied warranty and omissions-based fraud claims, the plaintiffs contended that Toyota knew that the wiring might draw rodents because it received several complaints of such damage from consumers and insurance companies.

In dismissing plaintiffs' fourth amended complaint with prejudice, Judge Guilford held that plaintiffs' express warranty claims failed because they alleged the existence of a design defect, which Toyota's express warranties do not cover.

The court rejected the plaintiffs' argument that the use of soy wiring was itself a defect in material under Toyota's express warranty because it attracts rodents. The court noted that when a complaint questions the choice to use a material "across the board" and does not claim "any individual wire was anomalously defective," such a claim implies a design defect.

The court also declined to "stretch" the implied warranty of merchantability to include a promise that no external actor (in this case, rats) will later harm the plaintiffs' vehicles.

Regarding omissions-based fraud claims, the court held that plaintiffs missed the mark and failed to meet Rule 9(b)'s pleading standard because they did not state with particularity what repairs were required or how much those repairs cost.

Although the court clearly was not receptive to the plaintiffs' somewhat novel allegations, Heber further solidifies the clear trend in federal authority asserting that automotive express warranties for material and workmanship do not cover design defects.

It also highlights the limits of an automaker's responsibility for latent defects under the implied warranty of merchantability. However, the exact contours of when a defect's manifestation is deemed to have been caused by external or internal forces remains to be seen and will likely be fertile ground for motion practice in the near future.

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