

Hello again!

Product sellers everywhere probably breathed a sigh of relief last month when the Nebraska Supreme Court held that Bridgestone/Firestone and Ford could not be held civilly liable for the rape and murder of 19-year old Amy Stahlecker by Richard Cook on a lonely stretch of Nebraska highway in the early morning hours of April 29, 2000. In their suit, Stahlecker's parents claimed that she was left stranded and vulnerable in the middle of nowhere when one of the tires on her 1997 Ford Explorer blew out. Cook thereafter attacked and murdered her. He was subsequently convicted of murder and is serving a life sentence. The Stahleckers claimed that the blowout and Amy's death were proximately caused by a defective tire.

In affirming the trial court's dismissal, the Nebraska Supreme Court commented, "While the operative petition in this case alleges facts which, if proved, would establish that both Ford and Firestone breached their duty not to place defective products on the market, we do not regard that duty as generally encompassing an obligation on the part of a manufacturer ... to anticipate and guard against criminal acts of third parties." The trial court had previously held that Cook's actions were "independent and intervening causes" and that a "general awareness on the part of Ford and Firestone that there are bad people in society who do bad things" was insufficient to establish foreseeability.

This Nebraska ruling appears to be in accord with other rulings where a tortuous act is followed by a criminal act which is the immediate cause of death or injury. Other cases which come to mind are a claim against the owner of a dimly lit parking lot for injuries occurring in a gang fight and a claim against a landscaping business whose failure to adequately trim bushes allegedly provided seclusion for a sexual assault. One thing to keep in mind, however, is that a defendant's ability to prevail because of an alleged lack of foreseeability will diminish if the criminal activity is of a repeated nature and the defendant has knowledge of the prior crimes.

Hope this is helpful. As always, let me know if you have questions or comments.

Best regards,

Remy

**For more information on U.S. product liability law please
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