

ALERT

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WASHINGTON SUPREME COURT AFFIRMS \$8,000,000 DISCOVERY SANCTION

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In *Magaña v. Hyundai Motor America, et al.*, 220 P.3d 191, (Wash. 2009), the Washington Supreme Court affirmed a default judgment against a car manufacturer for \$8,000,000 for discovery violations. The Supreme Court's holding was supported by evidence of willful efforts to frustrate and undermine "truthful pretrial discovery efforts."

Plaintiff Jesse Magaña sustained serious injuries in a car accident in 1997. Magaña was a passenger in a Hyundai Accent that swerved off the road and crashed into several trees. In the accident, Magaña was tragically rendered a paraplegic as he was thrown out of the rear window of the car. Magaña sued Hyundai Motor America for an alleged design defect in the vehicle, which allegedly contributed to his injuries. He also sued the drivers of the vehicle for negligent driving. Magaña prevailed in the jury trial and was awarded over \$8,000,000 in damages.

The Court of Appeals in *Magaña v. Hyundai Motor Am.*, 123 Wn. App. 306, 94 P.3d 987 (2004), reversed and remanded for a retrial on the issue of liability, but did not disturb the jury's damages award. Prior to the new trial, Magaña requested that Hyundai update some of its previous discovery requests. Among the discovery was a request for information on all seat back failures in Hyundai vehicles from 1980 to the present. Hyundai objected to this request and only produced limited information on two car models.

Magaña moved for a motion to compel the production of all information related to Hyundai seat back failures on all Hyundai vehicles regardless of the incident date or model of the vehicle. The trial court granted Magaña's motion. Hyundai delayed compliance with the trial court's order until only a few weeks before trial, and only provided limited responses. Magaña moved for a default judgment against Hyundai arguing that Hyundai: (1) failed to comply with production requests; (2) falsely answered interrogatories; and (3) failed

to produce documents related to rear impact crash tests. In an evidentiary hearing on sanctions, the trial court imposed a default judgment against Hyundai, finding that the discovery violations were "real and serious." The trial court made the following findings of fact: (1) there was no agreement between the parties to limit discovery; (2) Hyundai falsely responded to Magaña's request for production and interrogatories; (3) Magaña was substantially prejudiced in preparing for trial; and (4) evidence was spoiled and forever lost.

In *Magaña v. Hyundai Motor Am.*, 141 Wn. App. 495 (2007), the Washington Court of Appeals reversed the trial court, finding that there was no prejudice to Magaña's ability to try the case resulting from the discovery violations. The case was remanded for further proceedings. On further appeal to the Washington Supreme Court, the trial court's entry of default judgment against Hyundai was affirmed. The Supreme Court noted that in order to impose a harsh sanction for discovery violations, the record must clearly show: (1) one party willfully or deliberately violated the discovery rules and orders; (2) the opposing party was substantially prejudiced in its ability to prepare for trial; and (3) the trial court explicitly considered whether a lesser sanction would have sufficed. In its decision, the Supreme Court held that under Washington CR 37(d), the severe sanction was appropriate for Hyundai's willful violation of discovery rules, which significantly prejudiced Magaña in his preparation for trial.

The Washington Supreme Court in *Magaña* noted that its decision "hopefully educates and deters others so inclined" to violate discovery rules. The decision is a strong warning that parties may not self-limit their answers to discovery, nor refuse to answer via a standard series of objections. The case is also relevant in the e-Discovery context. The Supreme Court specifically found that:

“Hyundai had the obligation not only to diligently and in good faith respond to discovery efforts, but to maintain a document retrieval system that would enable the corporation to respond to plaintiff’s requests. Hyundai is a sophisticated multinational corporation, experienced in litigation.”

The above quote, and the approval of the \$8,000,000 sanction in this case, is representative of a growing national

trend by courts to impose and enforce severe sanctions on parties for failure to follow best practices on discovery, including e-Discovery.

To discuss any questions you may have regarding the decision discussed in this Alert, or how it may apply to your particular circumstances, please contact Thomas M. Jones (tjones@cozen.com, 206.224.1242) or Dan Ward (dward@cozen.com, 206.373.7208).