

## **Pensacola woman wins \$3.3M in Yamaha suit**

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A Pensacola woman severely injured in a four-wheeler accident in 2007 was awarded \$3.3 million in damages Wednesday by a jury in Montgomery, Ala.

Jackie McMahon was riding a Yamaha Rhino 660 four-wheeler on a family farm in Alabama when she tried to make a right turn on flat terrain at slow speed. The vehicle overturned on top of her, causing numerous leg and arm injuries.

In the civil case against Yamaha, Pensacola attorney Fred Levin alleged “wanton misconduct” by the company for failing to recall the vehicle.

Since its introduction in 2003, the Rhino has been the target of hundreds civil suits as a result of injuries. In 2010, the Consumer Product Safety Commission said it received reports of 70 deaths in Rhino crashes.

The \$3.3 million dollar verdict is the largest to date in the Yamaha Rhino national litigation.

McMahon lost her original 2010 case against Yamaha when her then-attorney, Virginia Buchanan, a member of the Levin Papantonio firm, sued the manufacturer for negligence.

“Basically in the first trial we tried the case against the product itself and its design,” Levin said.

McMahon appealed the verdict, and an appeals court judge sent the case back to the lower court for retrial.

In the second trial, Levin and his associates, Cameron Stephenson and Aaron Watson, argued the vehicle should have been recalled because of its history of overturning at relatively slow speeds over flat terrain.

“This time we tried the case against the company’s conduct,” Levin said. “Our focus was that the company did wrong, not that the product was defective.

“This was a very rare situation, mainly because we were going up against a major company with all kinds of expertise at their disposal. In my 53-year career as an attorney, this is probably my most pleasing verdict.”

The evidence against Yamaha showed that shortly after the Rhino 660 went onto the market, consumers and dealers began receiving reports that users were experiencing overturns even at slow speeds, Levin said.

Rather than recall the vehicle, Yamaha continued selling it, something that Levin argued put profits over safety.

McMahon said she was gratified Yamaha was finally punished. She said Levin and his two associates “did a fabulous job.”

Levin said the jury took six hours to return the verdict, spending most of that time determining the punitive damages of \$2 million and compensatory damages of \$1.3 million.

Yamaha attorney De Martenson, of the Birmingham, Ala., firm of Huie Fernambucq and Stewart, announced he would appeal.