



Free Access View

You've been granted free access to this San Antonio Express-News article.

Subscribe today for full access to the San Antonio Express-News in print, online and on your iPad.

SUBSCRIBE

NEWS

# Area couple joins wave of litigation over guardrails

By Zeke MacCormack | February 6, 2015 | Updated: February 6, 2015 8:40pm

0



Photo: Courtesy

A suit that claims the Trinity Industries guardrail shown here is defective was filed by Bryan Albright and Rebecca Wilson, the occupants of this car that crashed beside Interstate 10 in Kendall County on Jan. 7, 2013. The plaintiffs claim the flaw caused the guardrail to spear their car rather than flatten and collapse, as intended.

---

BOERNE — Local attorney Robert P. Wilson took more than a passing professional interest when a Texas jury in October returned a \$175 million verdict against Trinity Industries Inc. in a federal whistle-blower case filed over guardrails it manufactured.



Much of the trial evidence concerned the performance of the ET-Plus “rail head” — a rectangular end piece on guardrails intended to serve as a shock absorber — which the plaintiffs claimed instead has a tendency to spear vehicles due to design changes made secretly by Trinity.

“That’s when we realized that what happened there looked like what happened in my daughter’s accident,” Wilson said.

That Jan. 7, 2013 crash injured San Antonio residents Rebecca Wilson and her fiance, Bryan Albright , when their car hit a guardrail beside Interstate 10 in Kendall County.

“Sure enough, the name Trinity is right there on the guard rail,” said Wilson, who last month filed suit accusing Trinity of negligence and breach of duty.

“Instead of collapsing and protecting the occupants of the vehicle, the barrier failed to collapse and impaled the vehicle, crossing through the driver’s side door and into the back seat,” says the suit, filed in Kendall County Court-at-Law.

---

---

## LOCAL

---



More than 1,500 students at Bexar County schools went

Harlandale middle schoolers launch weather balloon

Wiedeman known for helping others feel at home

Retread bills being rolled out



Air Force launches a big change in basic training

Bexar school districts tackling truancy so judges don't have to



Mayoral candidates face off over police contract

---

The Dallas-based firm has faced a wave of litigation and has come under scrutiny by federal regulators.

At the trial in Marshall of the suit filed by Joshua Harman, a Trinity competitor, on behalf of the U.S. government, jurors heard evidence that Trinity made a series of changes since 2004 to the design of its guardrail end cap, or terminal, without revealing them to states or the Federal Highway Administration (FHWA).

“The government was defrauded,” Steven Lawrence, Harman’s lawyer, said Thursday.

He contends the company altered ET-Plus because the new design was \$2 cheaper per unit to make — and was less likely to be reused because it was more likely to be damaged in crashes, thereby generating more sales.

A motion to enter judgment is on a March 3 court docket in Marshall, said Lawrence, who expects the jury’s award to automatically be tripled, to \$525 million, because the suit was a False Claims Act filing. Harman would split the proceeds with the government.

An appeal is expected, since the defendant issued a statement that said, “Trinity believes the decision cannot and will not withstand legal scrutiny.”

The FHWA, which previously funded the purchase of ET-Plus equipment by states, in November commissioned Southwest Research Institute in San Antonio to test the modified design.

“If the device fails to meet crash test criteria ... it will no longer be eligible for federal reimbursement,” the agency said in announcing the tests.

Trinity spokesman Jeff Eller announced Friday that the ET-Plus system most widely used received passing marks in the first set of tests, validating Trinity’s long-standing position that the system complies with federal criteria “when installed, maintained and impacted” to specific standards.

Eller said analysis is still underway of tests done on a slightly taller model. He said the firm, which ceased production of ET-Plus in October, “will perform a thorough analysis before resuming any shipments.”

He wouldn’t say how many lawsuits the company is facing over ET-Plus, which has been linked in court pleadings to several deaths, according to published reports.

Dozens of states, including Texas, have suspended installation of ET-Plus since questions arose, but more than 200,000 of the modified units are reportedly still in use across the country.

“This terminal is a danger to everyone on the roads,” said Lawrence, who has three other suits pending against Trinity.

Virginia Attorney General Tommy Herring announced a suit against Trinity in December.

Texas Attorney General Ken Paxton is also involved in litigation over ET-Plus — but as defense counsel for the Texas Department of Transportation, Texas A&M University and the Texas Transportation Institute, co-defendants with Trinity in a suit filed in Taylor County last month.

Plaintiff Paul Kirk of Abilene claims a modified Trinity guardrail failed to compress when his vehicle hit it on Feb. 28, 2013, and hit his left leg, causing permanent nerve damage.

Paxton's staff declined comment on the suit, which accuses TxDOT of negligently and wrongfully selecting and installing the equipment. The university and its in-house research institute are accused of failing to tell TxDOT of problems that they allegedly detected with the modified design.

Kirk's lawyer, Brian Steward of San Antonio, said lax oversight of Trinity and inadequate state post-crash analysis of guardrails it repaired or replaced have put motorists at risk.

TxDOT spokeswoman Laura Lopez said the agency suspended the purchase and installations of GT-Plus in October and is sharing data it collects on guardrail performance with the FHWA.

"Safety remains our top priority," Lopez said.

*zeke@express-news.net*



**Zeke MacCormack**

Reporter | San Antonio Express-News

---

 [Contact the Author](#)

---

 [Submit a Tip](#)

---

 [Suggest a Correction](#)

---

---

|

**0 Comments**

powered by:



- Record video
- Upload video
- Upload image

Follow

Newest

Show: 10 | 20 | 50

### News



Drug-laden drone crashes near US-Mexico border

### Texas



Man arrested with 6 assault rifles during Texas traffic stop

### News




### News



Tourists get knockout photo of Stallone atop 'Rocky' steps


Winfield, long-serving Marlboro Man, dies in Wyoming at 85

San Antonio Express-News

Return to Top 

About

Our Company

Ad Choices 

Careers

Terms of Use

Advertising

Privacy Policy

Your Privacy Rights

Your California Privacy Rights

Contact

Archives

Customer Service

Frequently Asked Questions

Newsroom Contacts

Connect



HEARST newspapers

© 2015 Hearst Communications Inc.