

Woman Who Fell Off Bike Wins \$150K Vs. Retailer 67-Year-Old Claimed Brakes Were Faulty

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A 67-year-old woman who flipped over the handlebars when her bicycle crashed has won a \$150,000 verdict in a federal court products liability case.

Delores Lyoch said she bought the bicycle at a Sports Authority store in south St. Louis County because a newspaper ad promised it would be assembled by a “professionally trained technician.”

Her lawsuit, however, claimed that an ordinary sales associate put the bike together — and that he misassembled the brakes.

Lyoch’s attorney, Genevieve Nichols, argued that the accident occurred when the brake pad slipped under the tire rim and suddenly stopped the bike. The Sports Authority said it was impossible for this to happen while the bike was moving, and that the pad was forced under the rim during the accident or by mishandling afterwards.

Nichols said that in presenting the case to the jury, she did not focus on Lyoch’s testimony but on the physical evidence, “because it is harder for the pro-defendant jurors to explain away.”

In today’s tort reform climate, she said, “when everyone is talking about frivolous lawsuits and gold-digging plaintiffs, we did everything we could to focus on the physical evidence and make the jury understand how it fit with our theory of the case.”

Nichols also said she stressed the importance of presenting testimony from as many “regular people” as possible.

“We had several friends and neighbors of the plaintiff come in to testify — it was lucky that people she knew showed up at the accident scene — and tell the story both of the bike and of the plaintiff’s injuries,” she said. “I think the jury identifies with these regular people and finds it more difficult to believe that all of them are lying just to help the plaintiff.”

A report on the Sept. 23 verdict in *Lyoch v. The Sports Authority, Inc.* appears on Page 6.

Bicycle Accident

In April 2000, Dee Lyoch saw an advertisement in the Sunday newspaper for a bicycle that she subsequently purchased at The Sports Authority on Lemay Ferry Road in south St. Louis County. Lyoch testified the ad stated that “assembly by a trained technician” was



GENEVIEVE NICHOLS
Jury ‘identifies with regular people’

included in the price. She eventually bought the bike for half-price — \$29.36 — because it was not ready on several occasions when she went to pick it up. She further testified that professional assembly was important to her because she was used to performing only minor maintenance on her bikes, such as putting air in the tires or oiling the chains.

Over the next two years, Lyoch rode the bike, an off-road type, only about 10 times. She normally rode touring bikes, but on July 23, 2002, she took out the Sports Authority bike because she planned to ride on a dirt road.

Nichols said that when Lyoch was on eastbound Mattis Road on the Interstate 55 overpass, she braked as she rode down a slope. She claimed that when she applied the brakes, the right front brake pad slipped underneath the rim — causing the brake arm to jam in the wheel, stop the bike suddenly and throw her over the handlebars and onto the pavement face-first.

She fractured her jaw in five places, which required having her jaw wired shut for six weeks. She also suffered a broken nose, compression fracture at T7, a sprained wrist, multiple abrasions and bruises and cuts on her arms, legs and chest. She spent five days in the hospital and underwent physical therapy for her jaw and back.

Misassembled

Lyoch sued The Sports Authority for products liability. At trial, she argued that a sales associate assembled the bike, rather than a professionally trained technician, as advertised.

According to Nichols, Lyoch kept all the paperwork on the bike — including the bike tech assembly work order. She said that when they asked the company in an interrogatory who was involved in the sale and assembly of the bike, the company responded that it was a man named Ron Carlson. “Presumably they checked their employee lists with the names on the work order,” she said.

But Carlson’s personnel file indicated that he was a sales associate when he was hired and did not become a technician until more than a year after Lyoch bought the bike. “This fit with what our client’s niece told us. She went with Dee to pick up the bike and remembered the man who gave them the bike saying, ‘I don’t usually do this, the guy who does isn’t here today.’”

Nichols said the niece came to trial and testified to this statement. She said the niece also testified that Carlson was the man who assembled the bicycle and that he did some minor adjustments on the bike in front of them.

To further cement the liability argument, Lyoch claimed that the sales associate also misassembled the brakes, allowing the front brake pad to eventually slip under the rim and cause the accident. Nichols said that their mechanical engineering expert testified that the non-uniformity of the wear on the front brake pads proved that the bike was misassembled at the time of sale.

She said the expert explained that when the brake lever on a bicycle is squeezed, the brake pads should also squeeze the rim evenly and equally. When the pads are working properly, she said the pad will wear evenly because the entire surface contacts the rim.

However, the expert said that the wear on the front brake pads of Lyoch’s bike was not even and equal, indicating that the pads were not pushing evenly and equally on the rim. He testified that over a short time, enough of the rubber wore away on the right front pad — enabling it to slip underneath the rim when Lyoch put on the brakes.

“We argued that the uneven wear on the front brake pads, combined with Dee’s testimony that she never altered the brake assembly, meant that the misassembly was there from the beginning,” Nichols said. “If the brakes became messed up sometime after assembly by defendant, you couldn’t see any uneven wear because there would not have been enough use of the pads to make the uneven wear apparent.”

‘Impossible’

In defense, The Sports Authority denied that the bike had been assembled by a sales associate and that the brakes were misassembled. Instead, the company maintained that Lyoch’s theory of the accident was “impossible.”

According to Nichols, the company’s mechanical engineering expert, who had designed bikes for Schwinn for many years, maintained it was impossible for the pad to slip under the rim by applying the brake lever while the bike was moving. She said he testified that all the pads were evenly worn, which showed that there was no misassembly.

“He would not budge on this,” Nichols said. “He said the pads looked just fine and were hitting evenly and equally.”

Furthermore, the defense expert said, if the pad had slipped, there would have been other evidence to support that fact — for instance, the tire would be damaged from the brake arm dragging across it.

She said the defense argued that the pad must have been forced under the rim either during the accident — such as by hitting the retaining wall over the highway or the ground — or afterwards by mishandling. The company argued that Lyoch must have hit a bump that sent her over the handlebars — the brakes were not to blame.

To counter these arguments, Nichols said she demonstrated to the jury that “no matter how that bike fell in the accident, the pedals and the handlebars would hit the wall or the ground first, thereby preventing the pad from ever being affected.” She said they then called witnesses who arrived on the scene within minutes after the accident who testified that the brake pad was under the rim when they got to the scene, and that they did not force the pad under the rim.

“In our view this meant that it didn’t happen in the accident and didn’t happen after the accident so it must have caused the accident — and our expert is right,” Nichols said.

“The only other explanation was that someone — our plaintiff or her neighbors and friends — were lying and the pad was intentionally forced under the rim sometime after the accident.”

After hearing three days’ worth of evidence, the jury deliberated about three hours and returned a verdict in favor of Lyoch. The jury awarded her \$150,000 in damages, plus \$29.36 as reimbursement for the bicycle.

The attorney for The Sports Authority did not respond to a request for comment about the case.

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Genevieve Nichols, St. Louis
Attorney for Plaintiff