



Product Liability

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Spoiler Alert! First District Indicates Failure to Preserve Product Can Be Fatal to a Plaintiff's Case

On March 9, 2026, the First District Appellate Court affirmed the grant of summary judgment for an automotive manufacturer in a product liability action where the plaintiff had disposed of her wrecked vehicle prior to filing suit. *Maureen Headington v. Toyota Motor N. Am., Inc.*, 2026 IL App (1st) 241210-U.

The dispute began when Vincent Headington rear-ended a car in Downers Grove, Illinois, while driving a leased 2017 Toyota Camry. *Headington*, 2026 IL App. (1st) 241210-U, ¶ 8. Mr. Headington and his wife Maureen's amended complaint alleged that on impact "all of the vehicle's airbag inflators exploded internally . . . [which] caused the metal canister housing the airbags to rupture," thereby causing shrapnel to strike Mr. Headington's leg and lower body and causing him injuries. *Id.* Maureen Headington would later testify that she observed a 1.5-inch laceration on Vincent's shin at home after the accident and "assumed" that "shrapnel or debris" from the airbag deployment caused the cut. *Id.* ¶ 16. Although the wound eventually healed, Mr. Headington collapsed at home approximately 22 months after the collision and ultimately passed away. *Id.* ¶¶ 16, 18. Mrs. Headington brought claims of negligent design, product liability, breach of implied warranty, as well as claims under the Survivor Act and wrongful death against various Toyota entities as well as manufacturers of the car's components. *Id.* ¶¶ 9, 12.

Decedent Took Photographs to "Have Evidence"

At her deposition, Mrs. Headington testified that several days after the accident she and her husband went to the repair shop to retrieve personal items from the vehicle. *Headington*, 2026 IL App (1st) 241210-U, ¶ 17. Her husband took photographs of the vehicle while at the repair shop to "have evidence." *Id.* The repair shop deemed the car irreparable. *Id.* Mr. Headington signed a document transferring title of the vehicle to the insurance company. *Id.* Neither of the Headingtons requested that Toyota inspect the car or asked the insurance company to preserve the vehicle for litigation. *Id.* Mrs. Headington testified that since the vehicle was leased, she did not believe they had a right to prevent the transfer. *Id.* ¶ 17. The car was subsequently destroyed for salvage by the insurer. *Headington*, 2026 IL App (1st) 241210-U, ¶ 17. The repair shop's manager testified that he would have preserved the vehicle for litigation if he had been asked. *Id.* ¶ 25. Defendants' vehicle safety analysis expert - the only expert to give evidence - testified that without the vehicle or its on-board computer system he had "no factual information available" to determine whether the airbag system functioned properly or malfunctioned. *Id.* ¶ 27.

The defendants filed a motion to bar Mrs. Headington from presenting any evidence regarding the condition of the vehicle's airbag system or alleged defect as a discovery sanction pursuant to Illinois Supreme Court Rule 219(c), arguing that the Headingtons' failure to preserve the vehicle amounted to spoliation that prejudiced the defendants. *Id.* ¶ 30. Defendants noted that the Headingtons anticipated litigation prior to releasing the vehicle to the insurance company, as

demonstrated by taking photographs to preserve evidence. *Id.* ¶ 37. Simultaneously, the defendants filed a motion for summary judgment asserting that Mrs. Headington could not prove the existence of a defect without the vehicle or the computer data, and that without them any finding of a defect would rest on “impermissible speculation.” *Id.* ¶¶ 31-32. The circuit court granted the motion for summary judgment, ruling that Mrs. Headington could not prove a defect via circumstantial evidence without the vehicle, because she was unable to rule out “reasonable secondary causes” for deployment of the airbags. *Headington*, 2026 IL App (1st) 241210-U, ¶ 38. The circuit court denied the motion to preclude evidence without prejudice as moot, and subsequently denied Mrs. Headington’s motion to reconsider. *Id.* ¶¶ 38, 43. Mrs. Headington then appealed.

Duty to Preserve Evidence Rests With Plaintiff

The Appellate Court, reviewing de novo, stated that “to succeed on a product liability claim, the linchpin of plaintiff’s claims, a plaintiff must demonstrate that the injury resulted from a condition of the product, that the condition of the product was unreasonably dangerous, and that the condition existed at the time the product left the manufacturer’s control.” *Id.* ¶ 56 (citing *Brobbeey v. Enterprise Leasing Co. of Chicago*, 404 Ill. App. 3d 420, 428 (2010)). The Headington Court conceded that a plaintiff is permitted to use circumstantial evidence to prove these elements, but must either offer proof to exclude other potential causes or provide expert testimony to confirm a product’s defect. *Headington*, 2026 IL App (1st) 241210-U, ¶ 57. “A finding of liability cannot rest on mere speculation, guess, or conjecture; the evidence must support an inference that the defect was probable, not merely possible.” *Id.* (citing *Sanchez v. Firestone Tire & Rubber Co.*, 237 Ill. App. 3d 872, 874 (1992)). The court upheld summary judgment, agreeing with the defendants that “expert testimony was required to establish defect and breach because airbag systems involve specialized and technical knowledge beyond the understanding of a lay jury” and that plaintiff has “disclosed no expert witnesses on liability and relied solely on deposition testimony from witnesses who were not qualified as experts or who expressly stated that they could not determine whether a defect existed without inspection of the vehicle.” *Headington*, 2026 IL App (1st) 241210-U, ¶¶ 60-61.

As to Mrs. Headington’s claim that she and her husband only leased the vehicle and therefore did not have the right to prevent it from leaving their possession via the title transfer to the insurer, the Appellate Court “was not persuaded that she was mandated to relinquish possession of the vehicle.” *Id.* ¶ 64. “Moreover, plaintiff’s belief that she had no authority to retain possession of the vehicle is of no moment. Even if a plaintiff takes no affirmative action to destroy evidence, the duty to preserve it rests with the plaintiff who knew or should have known that the evidence was material to a potential civil action.” *Id.* (citing *Boyd v. Travelers Insurance Co.*, 166 Ill. 2d 188, 195 (1995)). Accordingly, summary judgment of the circuit court was affirmed. *Headington*, 2026 IL App (1st) 241210-U, ¶ 71.

The Appellate Court’s reasoning seems to indicate that if Mrs. Headington had retained an expert to opine on the issue of product defect, her claim may have survived summary judgment. Nonetheless, the Court’s statements on spoliation indicate that failing to preserve the vehicle at issue was fatal to her case before it was filed. First, even if she had been able to present expert evidence of a defect, the circuit court may have granted defendants’ motion to preclude the expert evidence as a sanction pursuant to Rule 219(c) and then proceed to grant summary judgment. Mrs. Headington’s recollection that her husband took photographs for “evidence” prior to transferring title of the vehicle was enough for the Appellate Court to find that the Headingtons anticipated litigation. This is a low bar. There was nothing else in the Court’s ruling for the proposition that Mr. Headington’s reference to “evidence” was in specific reference to evidence to be used in a potential suit, or that the Headingtons had actually considered pursuing a civil action at that point. If the circuit court had granted the 219(c) motion, summary judgment likely would have followed anyway.

Additionally, any expert opinion on product defect without the actual product would doubtless face a challenge pursuant to Illinois Supreme Court Rule 702.

A Brief History of Spoliation

The Headington case demonstrates that a valid spoliation claim can dispose of a liability case entirely, as opposed to merely granting an evidentiary presumption in favor of the defense. International common law courts have noted uniqueness of American courts in this regard in spoliation cases: “American jurisprudence is replete with examples of courts granting a variety of remedies where evidence has been lost or destroyed—such as striking the claim, or disallowing expert reports (either before or during trial), in order to ensure a level playing field.” *McDougall v. Black & Decker Canada, Inc.* (2008), 440 A.R. 253, para. 15 (Can. Alta. C.A.).

The history of spoliation in common law can be traced back to an 18th century “David v. Goliath” case involving a “chimney sweeper’s boy” against Paul de Lamarie, considered by some to be “undoubtedly the most prolific goldsmith of the first half of the 18th Century.” Hare, Susan M. *Paul de Lamerie: a retrospective assessment*, 25 *Huguenot Soc’y. J.* no. 3, 219 (1991). In the case, *Armory v. Delamirie* (sic), the boy found a ring set with multiple jewels and took it to de Lamarie’s shop for appraisal. (1722) 1 Strange 505. The goldsmith’s apprentice removed the stones to weigh them. *Id.* When the boy requested the return of the stones after the parties failed to agree on an acceptable price the jewels could not be located. *Id.* The boy brought an action in trover, which is a common law action for “wrongful interference with or detention of the goods of another.” *Black’s Law Dictionary* (5th ed. 1993). Trover has gradually been replaced with the “modern action of conversion,” since trover was traditionally limited only to tangible property, i.e. precious stones as opposed to computer passwords. *Z’S IT Consulting Servs., Inc. v. Hunt L. Grp., LLC*, 2024 IL App (3d) 230333, ¶14 (holding intangible property rights must nonetheless be merged into a tangible thing, such as a document, to sustain a conversion claim in Illinois). The *Armory* court found in favor of the chimney sweep’s boy in his trover claim against the famous goldsmith, and “directed the jury, that unless the defendant did produce the jewel, and shew it not to be of the finest water, they should presume the strongest case against him, and make the value of the best jewels the measure of their damages: which they accordingly did.” *Armory*, 1 Strange 505.

As one particularly indignant 19th century American court phrased it, “[t]o smother evidence is not much better than to fabricate it. A party who shuts the door upon a fair examination, and thus prevents the jury from learning a material fact, must take the consequence of any honest indignation which his conduct may excite.” *Bryant v. Stilwell*, 24 Pa. 314, 317-318 (1855).

In Headington, the plaintiff did not personally spoliator the evidence, but instead she did not take any steps to preserve it. In Illinois, that may be enough to defeat a plaintiff’s case.

About the Author

Alex P. Blair is a partner in *Goldberg Segalla LLP*’s Chicago office. He focuses his litigation practice in the fields of products liability, toxic torts, and professional liability. He has represented clients in state and federal courts in Illinois and has extensive experience defending cases involving product defect and toxic tort exposures.



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