

And The Defense Wins

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McDonald Toole Wiggins attorneys and DRI members [Francis M. McDonald, Jr.](#) and [Courtney M. King](#), and **Bowman and Brooke** attorney and DRI member [Alina Rodriguez](#), obtained a defense verdict for Ford Motor Company on July 18, 2017, in the Fifteenth Judicial Circuit in and for Palm Beach County, Florida.

This wrongful death lawsuit involved a single vehicle accident that occurred at approximately 4:00 a.m. during Spring Break 2003, when plaintiff's 20-year-old decedent, Anthony Llera, crashed plaintiff's 2003 Ford Mustang convertible into the median of Palm Beach Lakes Boulevard at approximately 40 mph before ramping up a tree and flipping over. Toxicology tests established that the blood alcohol level for Mr. Llera, who had spent the evening drinking with friends at Ohm Lounge in West Palm Beach, was more than twice the legal limit for operating a motor vehicle in Florida. Mr. Llera and one of his three passengers were killed in the crash. Mr. Llera's official cause of death was positional asphyxiation.

The operative complaint included causes of action against Ohm Lounge, now defunct, for serving alcohol to Mr. Llera, a minor, into the late evening hours such that he became intoxicated to the point he lost control of his normal mental and physical faculties before driving away from the bar in the Mustang. These claims were bifurcated when Ford noticed the case for trial.

At trial, plaintiff argued that the Mustang's airbag system was defective because it deployed prematurely, causing Mr. Llera to lose control and/or fail to regain control of the vehicle before it crashed into the median of Palm Beach Lakes Boulevard. Alternatively, plaintiff argued that the force of the Mustang crashing into the median was insufficient to deploy an airbag per the design parameters of the system itself, and therefore the airbags should not have deployed. Plaintiff also argued that the toxicology results were not reliable because after more than a decade of litigation, certain records were no longer within the custody of the toxicology lab or the medical examiner's office.

Ford established at trial that the airbag system was not defective, and appropriately deployed the frontal airbags when the Mustang crashed into the median. Ford further established that once the airbags deployed, given the time, distance to the impacted tree and damage to the vehicle, there was nothing anyone, much less an intoxicated driver like Mr. Llera, could have done to regain control of the Mustang. The eyewitness testimony and physical evidence supported only one conclusion: that the airbags had nothing to do with the crash or any inability to control the Mustang because the vehicle was out of control before the airbags deployed, meaning Mr. Llera's own negligence was the sole cause of the crash and its unfortunate result.

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