

# **Motorcycle Found Not defective**

Thomas W. Ely (Senior Partner/Irvine Office) On August 13, 2003, an Orange County jury found in favor of Kawasaki in a wrongful death product liability lawsuit. Plaintiffs, the wife and three children of the 31-year-old decedent, claimed that a 2000 Kawasaki KX250 motorcycle was defective thus causing fatal injuries. The decedent had been operating the motorcycle off road in the Beaumont, Calif. area on January 1, 2002. While attempting a jump, the upper triple clamp fractured and the motorcycle essentially separated into two pieces. The decedent, who was wearing a helmet, was ejected, striking his head with such force as to cause a fatal brain injury.

The defendants contended that the decedent had traveled 118 feet from the takeoff ramp to the point of landing, dropping more than 30 feet, and that the vehicle over rotated, landing nose first. As a result, an excessive and abnormal force was applied to the front end of the motorcycle causing the triple clamps and steering stem to fail. These parts were properly designed and manufactured, but this was an unforeseeable misuse of the motorcycle.

Plaintiffs settlement demand was \$6,800,000. The defendants, the designer, manufacturer, distributor and retail dealer, offered \$50,000 per CCP 998. Nine experts were called to testify for the plaintiffs, seven for the defense. The trial lasted 7 weeks and the jury deliberated for 6 hours, before deciding that the motorcycle was not defective.