

Keith Martin's
Sports Car Market
The Insider's Guide to Collecting, Investing, Values and Trends

Carrera GT Crashes into Court



Tail-happy—without a happy ending

The wall had been placed closer to the track to enlarge the area behind it for use as a children's play area

Last summer, a number of SCM readers were glued to the Internet, viewing the pictures and reading the extensive chatter about a horrific crash at the California Speedway. Ben Keaton and his passenger, Corey Rudl, were both killed when Keaton's Porsche Carrera GT crashed into a wall at an estimated speed of about 145 mph during a Ferrari Owners Club track day.

The crash photographs were sobering, and the Internet stories were engrossing. Added interest came from the fact that Keaton and Rudl, at 39 and 34 respectively, were both very successful young men. Rudl, in particular, was well known as an Internet marketing guru.

LAWSUIT FILED

Predictably, the lawsuit has been filed. Rudl's wife Tracey filed suit against a long list of defendants, seeking an unspecified amount of damages for her husband's wrongful death. She is represented by Craig McClellan, a very successful San Diego-area personal injury attorney who made a name for himself in the '80s when he represented a plaintiff who successfully sued Porsche on the theory that their 911 Turbo was too difficult a car to handle to be sold to inexperienced drivers.

"Legal Files" interviewed McClellan to learn more about the case. First off, Craig is no enemy of sports car manufacturers and aficionados. He is an ex-racer, having started in SCCA club racing in 1968 with an Elva Courier, then moving to an MG Midget, an Austin Healey 3000, and a number of other race cars. He has no beef with Porsche, and is a former owner himself. He also takes no credit for having caused Porsche to abandon the U.S. market with its 911 Turbo, as that happened about a year before he filed his lawsuit. However, he points out, "When they returned to the market with the 911 Turbo, they offered driver training to all their customers."

THE REAL STORY

There were many versions of the story broadcast on the Internet, all at least partially true. According to McClellan, here's what really happened.

Keaton had told several people that he had been having handling problems with the Carrera GT. Apparently, it was tail-happy. He decided to take it to the Ferrari Owners Club track day and see if he could work things out. Rudl had taken his Lamborghini to the track day, but it suffered from overheating. He was telling friends that he should sell it and get something else. Keaton, who did not know Rudl, suggested a Carrera GT and offered to give him a ride and

show him what the Porsche was like.

As the Porsche was completing a lap, the flagman sent a Ferrari onto the front straight. The driver hesitated, then started late and slow. The flagman saw the Porsche come onto the straight and tried to stop the Ferrari, but it was passing him by then, and neither the driver nor passenger noticed his waving arms or heard his shouts.

The Ferrari continued onto the straight at a relatively slow speed, just as the Carrera GT caught it. Keaton swerved to avoid contact, the Porsche's rear came around, and it skidded into a concrete barrier wall. The wall had been placed closer to the track than its original position in order to enlarge the area behind it for use as a children's play area during an earlier NASCAR race. The end result was the fatal crash.

THE CLAIMS

The lawsuit asserts a number of claims against several defendants. The more significant are: **Keaton Estate** – Failure to inform Rudl that he had been having handling problems with the Porsche, and that he had a recent incident where he lost control of the car. **Racetrack owners and operators** – Maintaining an unsafe racetrack as a result of inadequate maintenance, signage, and safety controls, and not moving back the concrete barriers after creating the children's play area. **Ferrari Owners Club and the flagman** – Negligently operating the track day by sending the Ferrari onto the track at the wrong time, violating their own rules by allowing passengers in the cars, failing to disclose Keaton's dangerous driving propensities, and allowing the track day to occur without moving the concrete barriers back to where they belonged. **Ferrari driver** – Not paying attention to the flagman, entering the track improperly, driving too slowly, and moving directly into the path of the Porsche. **Porsche** – Product liability for selling an unsafe car. This falls into three levels of defect. First: There was some mechanical problem with this particular car that made it handle badly. Second: There are design defects with the Carrera GT that make it a poor-handling car, mainly tail-happy. Third: The Carrera GT is too difficult a car to handle at high speeds for the average driver without instruction.

WHAT ABOUT THE RELEASE?

"Legal Files" recently addressed the enforceability of releases given by track participants and concluded that they are generally enforceable if the injuries are sustained by hazards that are contemplated at the time the release is given. This case tests the effect of the release signed by Rudl in two ways. One is that it alleges that the track owner and operators managed it in an unsafe manner and contrary to established safety standards for racetracks. In other words, they didn't have to make it as safe as the street, but they did have to make it safe as racetracks go. The other is that it alleges that numerous pertinent facts were concealed from Rudl, and he therefore did not give an informed consent.

CLAIMS ABOUT THE CAR

The claims about the Carrera GT itself are likely of most interest to us. Whether there was a mechanical issue with this particular car, or whether the Carrera GT design is inherently unstable, are matters that are best left to the engineers to debate.

But the claim that the Carrera GT is too hot to handle is something that all of us can think about. And this isn't just Porsche's problem. Clearly, the same claims can be made against other supercars, such as the Ford GT, the Enzo, and a host of others. A quick Internet search will locate sites whose function is to display photos of wrecked supercars, typified by www.wreckedexotics.com.

It isn't hard to conclude that many of these cars are sold to owners who have far more cash than driving skill. And it's probably realistic to assume that these owners are not going to recognize their limitations and will succumb to the desire to drive these cars "the way they were meant to be driven," sometimes with disastrous consequences for themselves and others.

Should the manufacturers be required to qualify owners before selling these cars to them? How are they supposed to determine qualifications? And should they automatically be held liable when they sell supercars to owners who can't handle them?

McClellan says, "No, Porsche should only be liable because this car was defective." But then he adds, "It is defective, however, if the risks of its design outweigh the benefits. If its power and handling characteristics make it too dangerous for the average driver without training or instruction, then it is defective. Porsche should be liable because it sold a defective vehicle to Ben Keaton." I certainly can't profess to have the answers to all of these questions, but I think this case is going to answer some of them after it works its way through the legal system. We'll keep you informed.

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