

**UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT**

BERNARD PITTERMAN, et al.
Plaintiffs,

v.

GENERAL MOTORS LLC,
Defendants.

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CIVIL ACTION NO.
3:14-cv-00967(JCH)

SEPTEMBER 29, 2016

**SUPPLEMENTAL RULING ON DEFENDANT’S MOTION FOR SUMMARY
JUDGMENT #59 REGARDING DUTY TO WARN CAUSE OF ACTION**

On April 29, 2016, the Court issued its Ruling denying defendant GM’s (“GM”) Motion for Summary Judgment, Doc. No. 120. Four days later, the Connecticut Supreme Court issued its Opinion on the certified question in Izzarelli v. R.J. Reynolds Tobacco Co., stating unambiguously that courts applying Connecticut law should use the modified consumer expectation test when determining liability for a design defect. 321 Conn. 172 (2016). This dramatic clarification of law led the court, out of an abundance of caution, to order the parties to brief whether Izzarelli required the court to revisit its Ruling denying summary judgment. Doc. No. 132. Specifically, the court wanted to ensure that Izzarelli did not require overturning the Ruling denying summary judgment on plaintiff Pitterman’s (“Pitterman”) failure to warn cause of action because Pitterman had failed to produce expert testimony of GM’s duty to warn.

After considering the parties’ briefing, the court concludes that the holding in Izzarelli does not alter the court’s reasoning. Specifically, Izzarelli does not change the standard for failure to warn claims outlined in the Connecticut General Statutes. Conn. Gen. Stat. §52-572q; see Izzarelli, 321 Conn. at 194 (“We reach the following

conclusions regarding the standards for a strict product liability action based on defective design generally and in the present case.”) (emphasis added). The court reiterates its Ruling that Pitterman can present its claim to the jury, regarding GM’s duty to warn, without experts.

SO ORDERED.

Dated at New Haven, Connecticut this 29th day of September, 2016.

/s/ Janet C. Hall
Janet C. Hall
United States District Judge