

Carbon Monoxide Poisoning Settlement of \$1.4 Million

The *Chicago Daily Law Bulletin* featured the \$1.4 million settlement secured by attorneys Francis Patrick Murphy and Edward G. Willer for the family of a 62 year-old husband and father who died from carbon monoxide poisoning while at a friend's house. Working for hours on a court holiday, Cook County Circuit Court Judge Deborah Dooling finalized the settlement a day before the jury was to be selected and after a week of hearing over 80 pre-trial motions.

On Tuesday, April 30, 2004, Jerry Huyler went to the home of his good friend, John Volckens, at 1370 Scott Street, Winnetka, Illinois, along with another friend, Jonathan Holland. Volckens lived in the home but did not own it. The three men would meet weekly for dinner, watch their favorite TV program, Star Trek, and smoke marijuana. On April 30, after being in the house for about an hour, the three men were overcome by carbon monoxide. Holland and Volckens survived and Huyler died. There were no functional carbon monoxide detectors in the home.

Initially, Volckens and Holland thought Huyler died from "bad dope" as they told the Winnetka Police Department. A day later, though, the Cook County Medical Examiner discovered Mr. Huyler died of carbon monoxide poisoning. A subsequent inspection of the home revealed that the carbon monoxide was the result of a partially clogged vent from the boiler. Defendant, V.J. Killian, a plumbing contractor, had replaced a hot water heater in the home a month before the occurrence.

In an attempt to escape liability, the homeowner and management company argued that they were not responsible for the installation or maintenance of the carbon monoxide detectors.

Prior to April 30, 2004, Volckens had lost his family home at 1370 Scott Street for nonpayment of property taxes. The home was eventually deeded to real estate tycoon and defendant, Warren Peters, who had one of his companies, Jennings Realty, act as

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property manager.

Volckens lived in the home as a tenant under a repossession contract, drafted by Peters' attorney, which required application of the Chicago Building Code even though the property was in Winnetka. At that time, Winnetka's building code did not require carbon monoxide detectors. Chicago's code required the owner of the property, not the tenant, to supply and install a carbon monoxide detector.

Settlement negotiations reached a critical stage after Judge Dooling ruled that the law required Peters to supply and install a carbon monoxide detector under the contract; not the tenant. "When you sign a contract, you give your word" said attorney Willer. "Here, the owner broke his word. The repossession agreement was specifically drafted by the Jennings Realty lawyer to include Chicago Building Code requirements of installing and maintaining a carbon monoxide detector. Judge Dooling, in one of her rulings, found that the owner had a contractual obligation, that could not be delegated, to supply, install and maintain a carbon monoxide detector, regardless of the conduct of the occupants."

"This was an unnecessary and preventable death, which robbed Jean Huyler of her husband of 36 years and Stafford, Dana, and Brandon of their father," said attorney Murphy. "Had the sophisticated real estate speculator and his property management company lived up to the contract and supplied and installed a simple carbon monoxide detector, Mr. Huyler would have survived."