

\$3.5 Million Settlement for Family of Girl Killed in Fire Started by Utility Lighter

August 2010

Corboy & Demetrio has resolved a product liability and medical malpractice case on behalf of the family of a young girl who died as a result of a fire started in her home with an Aim N Flame utility lighter. The settlements totaled \$3.5 million and were paid by Scripto/Tokai, Inc., (Scripto), the Japanese manufacturer of the utility lighter, and Loyola University Medical Center. Corboy & Demetrio attorneys Michael K. Demetrio, Edward G. Willer and Margaret Power represented the girl's estate.

On March 31, 1998, a 3 year old girl was in a bunk bed with her twin sister when one of them ignited an Aim N Flame utility lighter not equipped with a child resistant mechanism and started the bedding on fire. The house fire was eventually extinguished and the girl was taken to the Burn Unit at Loyola University Medical Center in Maywood, Illinois. She suffered smoke inhalation and subsequently died on April 21, 1998. She is survived by her mother and three sisters.

The Aim N Flame lighter, designed, manufactured, distributed and sold by Scripto, was purchased by the girl's mother one week prior to the fire.

Corboy & Demetrio alleged that the lighter was unreasonably dangerous and defective because it did not have a child resistant device even though an alternative design was known and available to the lighter's manufacturer.

On April 29, 2003, the trial court entered summary judgment for Scripto holding, as a matter of law, that they did not owe or breach any duty imposed upon them by law. The Appellate Court, First District, reviewed the case and reversed that ruling by the trial judge. The Appellate Court held the plaintiffs could proceed on the grounds of strict liability and negligence based on a defective design claim

Attorneys

- Michael K. Demetrio
- Margaret M. Power
- Edward G. Willer

Related Practices

- Medical Negligence
- Product Liability

and remanded the case back to the trial court. Scripto appealed that decision to the Illinois Supreme Court which held the plaintiffs had presented sufficient evidence for the jury to determine whether the dangers of the lighter outweighed its benefits to the public, an analysis known as the risk-utility test. The Supreme Court remanded the case to the trial court. (*Calles, et al. V. Scripto-Tokai Corp., et al.*, No 101089)

Scripto asked the Illinois Supreme Court to find the utility lighter was a "simple product" with obvious dangers that would subject the lighter only to the consumer-expectation test, precluding an examination of the lighter under the risk-utility test. The "simple product" finding would have allowed Scripto to prevail in the summary judgment motion.

The Supreme Court declined to impose a simple-product exception. Justice Anne M. Burke, writing for the majority stated, "Adoption of such a rule would essentially absolve manufacturers from liability in certain situations even though there may be a reasonable and foreseeable alternative design available that would make a product safer, but which the manufacturers decline to incorporate because it knows it would not be held liable." She further stated, "This would discourage product improvements that could easily and cost-effectively alleviate the damages of a product."

The plaintiffs contended in the medical malpractice case against Loyola University Medical Center that the girl died as a result of a cardiac arrhythmia after she was given an overdose of potassium chloride.

"This matter on behalf of the family exemplifies the perseverance required to protect victim's rights when they are opposite large corporate entities," partner Michael K. Demetrio said. "The entire Corboy & Demetrio team of lawyers and staff's efforts not only resulted in fair compensation for the family, they resulted in obtaining an Illinois Supreme Court decision that will protect all Illinois citizens from unsafe products," Demetrio added.

The lawsuit was pending before Judge William D. Maddux of the Circuit Court of Cook County and mediated by retired Judge Michael J. Hogan. Judge Maddux entered an order approving the \$3.5 million settlement and its distribution to the surviving heirs.

To consult with any of the attorneys on this case, or any other attorneys at the Corboy & Demetrio law firm, call 312.346.3191. We are available 24 hours a day, 7 days a week.