

Corboy & Demetrio Personal Injury Attorney Willer Secures \$6 Million in Oil Refinery Death

Mechanic Killed When Fire Erupts at Clark Refinery

March 2009

Clark USA, Inc., has agreed to settle a lawsuit brought by the family of a mechanic killed when a fire erupted at an oil refinery in Blue Island, Illinois, for \$6 million. The family was represented by Edward G. Willer, a personal injury attorney at the Chicago law firm of Corboy & Demetrio with extensive experience in workplace injury litigation and gas and fire explosion lawsuits.

Oil Refinery Fire

In March of 1995, a 37 year-old maintenance mechanic was employed at Clark Refining & Marketing, Inc., (Clark Refining), which operated an oil refinery in Blue Island, Illinois. On March 13, 1995, he was killed when a fire erupted at the refinery while he was on his lunch break. The fire was caused by other Clark Refining operators who were performing maintenance work by replacing a four-inch valve on a machine without ensuring that the flammable materials within the pipe had been depressurized.

Personal Injury Wrongful Death Lawsuit Against Oil Company

After Clark Refining paid the mechanic's estate under the Workers' Compensation Act, the estate filed a wrongful death lawsuit against Clark USA, the sole shareholder of Clark Refining. The lawsuit alleged that Clark USA's overall business strategy was focused on limiting costs and increasing revenue. As a result, funds for training, maintenance, supervision and safety at the refinery were insufficient. Due to budget restraints imposed upon Clark Refining by its parent company Clark USA, operators were performing maintenance work. The estate alleged that those employees were not maintenance mechanics and not trained or qualified to work on refinery equipment. Clark USA argued that as a mere holding company with no control over the day-to-day operations, it owed no duty to any

Attorneys

- Edward G. Willer

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refinery employees.

The trial court agreed with Clark USA and granted Summary Judgment in its favor, thus dismissing the lawsuit. The plaintiff appealed that ruling and the Illinois Appellate Court reversed the trial court acknowledging a "direct participation" exception for the first time. It ruled that a holding company which directly intervenes in the management of its subsidiaries can be held liable for injuries to the subsidiary's employees.

Illinois Supreme Court Decision

Defendants then appealed to the Illinois Supreme Court and the Illinois Supreme Court addressed "direct participant" liability and adopted the theory as the law of Illinois.

In adopting the theory, the Court found that where there is evidence sufficient to prove that a parent company mandated an overall business strategy and carried that strategy out by its own specific direction or authorization, surpassing the control exercised as a normal incident of ownership in disregard for the interests of the subsidiary, that parent company could face liability. The key elements to the application of direct participant liability are a parent company's specific direction or authorization of the manner in which an activity is undertaken and the foreseeability of harm. In this case, the CEO of Clark USA and Clark Refining was the same officer who issued directives on behalf of the parent corporation and forced the subsidiary into a "survival mode operation," which resulted in operators performing maintenance work beyond their abilities.

Since the Supreme Court decision, many plaintiffs have utilized direct participant liability as an alternative to piercing the corporate veil to hold parent companies responsible.

Attorney Edward G. Willer

"The victim in this oil refinery fire," said **personal injury lawyer Willer of Corboy & Demetrio**, "was a young man who was married with two very young children. He and his family were living the American dream. Now, after more than fourteen years of litigating this case at the trial, appellate and Supreme Court level, the family is relieved to finally obtain full justice and closure to this tragedy."

Lawsuit Settlement

Clark USA will pay the entire \$6 million settlement.

About Corboy & Demetrio

Named as a Top Law Firm by Chicago Magazine in 2008, Corboy & Demetrio is one of the nation's premier law firms. The Chicago law firm represents individuals and their families in serious personal injury and wrongful death cases, and is renowned for its achievements in the courtroom and for its contributions to the community. The rights and concerns of its clients are at the core of Corboy & Demetrio's practice. That

dedication, compassion and relentless drive has resulted in exceptional service and exceptional results for its clients. The Chicago based firm has acquired more than \$3 billion in settlements and verdicts and has attained more than 500 settlements and verdicts in excess of \$1 million.