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Vs VERDICTS & SETTLEMENTS

Propane Companies Sued After Explosion 75-Year-Old Man Died In His Home

\$3.75 Million Verdict

Lemuel "Dutch" Woltje, 75, died in May 1999 after suffering burns on more than 25 percent of his body due to a propane explosion at his home.

His wife brought a wrongful death action against Propane Continental, Inc., Cornerstone Propane, Gary Moulin and ITT on theories of negligence, strict liability-failure to warn and product liability-negligent failure to warn. Moulin was the retailer of the propane gas while Cornerstone Propane and PCI, a division of Cornerstone, were the wholesalers. ITT was the manufacturer of the furnace control valve. Wanda Woltje voluntarily dismissed ITT at the close of her case.

Woltje claimed Moulin violated industry standards by failing to replace the furnace regulators 15 years after the date of manufacture, by failing to conduct an inspection of the Woltje's gas system and by failing to install a sediment trap on the gas line connected to the furnace. In addition, she claimed that Moulin failed to follow the industry standard for retailers to pass out consumer-oriented safety brochures and to have a gas check inspection program as a part of their practice and procedures.

Woltje also claimed that the wholesalers were on notice from a prior lawsuit that Moulin was not complying with industry standards and that Moulin did not routinely bring his customers' propane systems up to code.

Moulin contended that he adequately warned his customers of the dangers of propane through the warnings on the back of the delivery tickets and that he did not violate any of the gas codes in that Woltje's system complied with the code when he began delivering to them in 1986. He also claimed that subsequent changes in the system were not necessary because the code provisions were retroactive.

PCI and Cornerstone Propane claimed that they were the wholesalers of the propane and had no duty to monitor the re-



LOUIS C. ACCURSO

tail activities of Moulin.

The jury assessed actual damages of \$1 million, allocating 55 percent of the fault to Moulin, 10 percent to each of PCI and Cornerstone Propane, and 25 percent to decedent Woltje. It also awarded \$3 million in aggravating circumstances damages against Moulin. Prejudgment interest of \$425,989 was also awarded.

Type of Action: Negligence

Type of Injuries: Death

Court/Case Number/Date: Jackson County Circuit Court/99-CV208524/Feb. 6, 2001

Caption: Woltje v. Propane Continental, et al.

Judge, Jury or ADR: Jury

Name of Judge: Lee Wells

Verdict or Settlement: \$3.75 million verdict

Special Damages: \$31,767 medical expense

Allocation of Fault: 10 percent to Propane Continental; 10 percent to Cornerstone Propane; 55 percent to Gary Moulin; 25 percent to Lemuel Woltje

Last Offer: \$500,000

Last Demand: \$2 million

Attorneys for Plaintiff: Louis C. Accurso and Charles H. McKenzie, Kansas City; Terry M. Evans, Trenton

Insurance Carrier: Safeco/American States for Gary Moulin; Nobel Insurance Services for Propane Continental, Inc. and Cornerstone Propane, Inc.

Plaintiff's Experts: Dr. Robert Boulware, Liberty (internal medicine); William Cain, San Diego, Calif. (chemo-sensory perception); Tim Dunn, Atlanta (chemical engineer, fire & explosion investigation); Dr. Richard Korentager, Kansas City, Kan. (plastic surgery); Ken Laughrey, Houston, Tex. (Warnings expert)

Defendant's Experts: None