

MISSOURI LAWYERS WEEKLY

November 13, 2006

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VERDICTS & SETTLEMENTS

Settlement in wrongful death of firefighter reached as jury deliberates

Widow claimed alarm failed to go off, signal location

Confidential settlement



Daniel Finney Jr.

The widow of a St. Louis firefighter settled her case against the maker of a breathing apparatus for an undisclosed amount during jury deliberations.

Robert Morrison, a member of the St. Louis Fire Department, died May

3, 2002 while battling a blaze at the Gravois Refrigeration facility at 2239 Gravois.

Morrison became disoriented and lost in the heavy smoke and darkness on a second floor of the burning building. He then lost consciousness and subsequently died.

In her lawsuit, Laura Morrison claimed that her husband's personal alert safety system, commonly known as PASS, which was manufactured by Survivair under the brand name Compass, failed to sound an alarm when the firefighter stopped moving.

When Morrison's equipment alarm failed, his fellow firefighters were unable to locate him for more than 20 minutes. On a third attempt, Morrison was located when a firefighter tripped over his body 10 feet from the building's entrance.

According to plaintiff's attorney Daniel Finney, expert engineers testified that water had entered the electronic compartment of the PASS and caused it to malfunction.

Finney said Survivair employees admitted the device had a defect that permitted water to enter the electrical compartment while it was in use. He also stressed that Survivair had received "dozens" of complaints about the equipment from various fire departments prior to Morrison's death.

"Survivair failed to recall the devices, issue a warning or tell the fire departments that water was determined to be entering the electronics compartment," Finney said. "It is causing a lot of fire departments to re-evaluate the reliability of the equipment they have."

The defendants in this case denied any product malfunction and argued that there was comparative fault on the part of Morrison.

Defense lawyer Lynn Hursh confirmed the facts of the case but declined further comment, citing the confidentiality of the settlement. Shortly after the settlement was reached, Hursh had said settlement discussions had been underway for months. Had the jury reached a decision prior to the settlement agreement, the decision likely would have ruled, he had said.

Finney said a second St. Louis firefighter lost his life in the same blaze, with the connection also made to his PASS equipment. A lawsuit over that

death is pending.

Colt Safety, which was the actual distributor of the equipment, was dismissed from the Morrison case pursuant to the Missouri "innocent seller" statute: 537.762 RSMo.

Cases such as this have prompted the National Fire Protection Association to pursue policies that would require manufacturers to reveal product defects.

— Mike Nixon



The air tank and mask shown above left is similar to those many firefighters use. Below, an illustration shows the passage of air through the system. A personal alert safety system device (PASS) is worn on the chest. The PASS shown below left was used by firefighter Robert Morrison. His widow, Laura, claimed the device failed to sound an alarm when Morrison collapsed.



Facts of the Case

Type of Action: Product liability, wrongful death

Type of Injuries: Death due to smoke inhalation

Court/Case Number/Date: St. Louis Circuit Court/042-08884/Sept. 22, 2006

Caption: Laura Morrison, et al. v. Survivair Inc., a division of Bacou Dalloz

Judge, Jury or ADR: Mediation

Name of Mediator: Henry Menghaini

Verdict or Settlement: Confidential settlement

Special Damages: Lost wages in excess of \$1 million

Allocation of Fault: N/A

Last Demand: Confidential

Last Offer: Confidential

Attorney for Plaintiff: Daniel P. Finney Jr. in independent practice, St. Louis

Attorneys for Defense: (For insurance carriers) Lynn Hursh of Armstrong Teasdale, Kansas City, Mo.; (For Survivair) Gary Harvey of Morrison & Mahoney, Boston.

Insurance Carriers: AIG and Lexington

Plaintiff's Experts: John Hillaert (mechanical engineer) of MPR & Associates, Alexandria, Va.; David Schwade (mechanical engineer) and David Harrell (electrical engineer), both of MPR & Associates, Arlington, Va.; Peter Tuteur, M.D., (pulmonary function) of Washington University School of Medicine, St. Louis; Karen Tabak, PhD, (economist) St. Louis

Defendants' Experts: Clifford Bigelow (mechanical engineer) St. Louis; Charles Landy (electrical engineer) St. Louis