

## VERDICTS & SETTLEMENTS

### PERSONAL INJURY

#### Premises & Product Liability

##### Fire

SETTLEMENT: \$7,000,000

CASE/NUMBER: Case I.D. Confidential

COURT/DATE: L.A. Superior Central / October 23, 1995

JUDGE: Hon. John K. Trotter

CONTRIBUTIONS: \$6,800,000 paid by premises Defendants; \$200,000 paid by clothing Defendants.

ATTORNEYS: Plaintiff - Lawrence R. Booth, Richard B. Koskoff (Booth & Koskoff, Torrance)

Defendant - Paul N. Stam (Smith, Smith, et al., Irvine); Steven L. Smilay (Murchison & Cumming, L.A.); Robert E. Kuhn (Law Offices of Nolan Henderson, Glendale); Scott A. Freedman (Homburger & Criswell, L.A.)

TECHNICAL EXPERTS: Plaintiff - Gordon Damant, flammability and clothing expert, Sacramento; Billy Sanders, flammability and stove expert, Sacramento; Martin J. Siegel, mechanical engineer, L.A.

Defendant - William Crookshanks, fire causation, Orange; Robert A. Kadlec, accident reconstructionist, L.A.; Howard Needles, flammability and clothing expert, Pebble Beach

MEDICAL EXPERTS: Plaintiff - Ira Frank, M.D., psychiatrist, Beverly Hills

Defendant - Charles W. Spenier, M.D., plastic surgeon, Long Beach; Lester M. Zackler, M.D., psychiatrist, Sherman Oaks

**FACTS:** In May of 1992, Plaintiff, an immigrant from Bangladesh, rented an apartment from Defendant premises owner. He allegedly had difficulty, from the beginning of his tenancy, with lighting the 4-burner stove. He complained to management who sent him various handymen to repair; but then the stove would stop functioning again after 10 or 12 days. This occurred approximately 6 times. Management requested that he put these complaints in writing; he allegedly made 4 complaints (disputed) concerning the stove and other deficiencies in the apartment. Allegedly all the apartments in this 57-unit building owned by Defendant had identical stoves which were 30-plus years old and at least 20 percent were defective, allegedly due to corrosion and age. Management told Plaintiff (and allegedly others) to light the burners with a match or lighter, if they had difficulty. On November 9, 1992, when Plaintiff was a 33-year-old parking-lot cashier, he was attempting to light the stove

with a piece of paper by transferring the flame from one defective burner to another, when a fire/explosion occurred which engulfed him, setting his clothes on fire. He was wearing a polo shirt purchased from Defendant retailer, a traditional wrap-around skirt known as a "longhi," and no underwear. Defendants consisted of the owners of the apartment complex; the prior premises-management company; and the management company at the time of the incident (premises Defendants). In addition, Plaintiff sued the polo shirt retailer and manufacturer (clothing Defendants).

**CONTENTIONS:** Plaintiff contended that the premises Defendants' defective and aged stove constituted a dangerous condition which was the primary cause of the fire and his injuries. Plaintiff further contended that the premises management reluctantly made repairs, demonstrating a deliberate refusal to spend money to maintain safety in this

low-cost housing. Plaintiff contended that a combination of escaping gas from the burners that didn't function properly and the tendency of the burners to erratically fail to function and then suddenly go on without warning, led to an inadvertent ignition of the Plaintiff's shirt. Plaintiff also contended that the polo shirt was not sufficiently fire retardant, and thereby contributed to the incident and his injuries. Defendants clothing manufacturer and retailer contended that the shirt met all applicable federal standards of fire retardant capacity, and in fact, the test performed by Defendants established this compliance. The premises Defendants contended that the stoves were repaired on request and that the non-functioning was due to poor day-to-day maintenance on the part of the tenants; that the fire may have been due to cooking oil or grease; that Plaintiff's version of the accident was against the law of physics; and that there could not have been a gas explosion under these circumstances, nor the clothing catching on fire with a sudden explosion of this kind.

**INJURIES:** Second and third degree burns over approximately 60 percent of the body, primarily below the waist and including his genitalia, buttocks, and back requiring 3 months hospitalization, skin graft surgeries, and extensive psychotherapy; residual scarring, impotency, and trauma. There were no burns to his face or neck.

**SPECIALS IN EVIDENCE:** MEDS \$900,000; Future MEDS \$100,000; LOE minimum wage.

**SETTLEMENT DISCUSSIONS:** Offers and/or demands, exchanged prior to this result, were not disclosed.