

PRODUCTS LIABILITY**Appliances — Design Defect — Premises Liability****Stability brackets never put on stove that tipped over on infant****SETTLEMENT** **\$2,125,000**

CASE Unique Russey, a minor by her mother and next friend and guardian, Thalassa Shipp, and by Amcor Investment Group, M.A., guardian of the estate, and Thalassa Shipp, individually v. Rockford Housing Authority, No. 00 L 82

COURT Winnebago County Circuit Court, IL

JUDGE Janet Holmgren

DATE 3/15/2004

PLAINTIFF

ATTORNEY(S) Lawrence J. Morrissey (lead), Morrissey Law Offices, Rockford, IL (Unique Russey)
Daniel J.T. Sciano, Tinsman, Scott & Sciano, San Antonio, TX (Unique Russey)

DEFENSE

ATTORNEY(S) Jay S. Judge, Judge, James & Kujawa, Park Ridge, IL

FACTS & ALLEGATIONS In 2000, plaintiff Unique Russey, a 2-year-old girl, opened the oven door in the kitchen of her family's Rockford, Ill., apartment and climbed inside. Her weight caused the range to tip over, trapping her inside while hot grease spilled onto her. Unique sustained second- and third-degree burns.

Unique and her mother sued the stove manufacturer, White Consolidated Industries, Cleveland, claiming that, though the stove came with stability brackets, it was defectively designed because it tipped easily. A safer design using counterweights instead of brackets should have been manufactured, the plaintiffs claimed. They further argued that the warnings that came with the stove against not using the brackets were inadequate, and that surveys of consumers showed that they did not use the anti-tip brackets with regularity. The plaintiffs settled with White Consolidated for \$675,000 in 2000. Another party which was brought in as a third-party defendant for its part in the manufacture of the stove, American Gas Association, Washington D.C., contributed another \$25,000.

Also named were Rockford Housing Development Corp. (RHDC), the owner of the the apartment complex, and Rockford Housing Authority (RHA), which managed the complex. The plaintiffs claimed that they were negligent in allowing the stove to be installed without using the brackets. RHDC settled for \$1 million.

RHA, the only remaining defendant, maintained that it was protected by tort immunity, as the policy to install or not install

the brackets was a discretionary function of the housing provider, and the local code did not require brackets, it claimed.

In pretrial motions, Judge Janet Holmgren, incorporating the BOCA mechanical code, said brackets were required and not discretionary.

INJURIES/DAMAGES *scar and/or disfigurement, body; second-degree burns; third-degree burns*

Unique sustained second- and third-degree burns on 25% of her body and has scarring. Her past medical expenses were \$60,000 and her future medical expenses were estimated at \$75,000. The plaintiffs sought damages for the medical expenses, pain and suffering and disfigurement.

RESULT One day before jury selection, RHA agreed to pay \$425,000, making Unique's total recovery from all defendants \$2,125,000. There was no admission of liability.

EXPERT(S) None reported

EDITOR'S NOTE Counsel for Rockford Housing Authority did not contribute to this report.

—Dave Venino