



Restaurant owner blamed fire on men's-room ceiling fan

Type: Verdict-Defendant

Amount: \$0

State: Texas

Venue: Federal

Court: United States District Court, Western District, Austin, TX

Case Type:

- *Strict Liability*
- *Premises Liability - Fire*
- *Products Liability - Design Defect; Marketing Defect; Breach of Warranty; Manufacturing Defect*

Case Name: More, JB, Inc. t/d/b/a Cain & Abel's v. NuTone, Inc. v. Jakel, Inc., No. 1:05-CV-338-JRN

Date: June 08, 2007

Plaintiff(s):

- More, JB, Inc.; Cain & Abel's

Plaintiff Attorney(s):

- Daniel W. Jackson; Emmons & Jackson; Houston TX for More, JB, Inc.; Cain & Abel's
- Lawrence T. Bowman; Cozen O'Connor; Dallas TX for More, JB, Inc.; Cain & Abel's
- Donald T. Waltz; Cozen O'Connor; Dallas TX for More, JB, Inc.; Cain & Abel's

**Plaintiff Expert
(s):**

- John Lentini; Cause & Origin; Big Pine, FL called by: Daniel W. Jackson, , Lawrence T. Bowman, Donald T. Waltz
- Karl Weisheit CPA, CVA; Accounting; Dallas, TX called by: Daniel W. Jackson, , Lawrence T. Bowman, Donald T. Waltz
- Mark Sutherland; Electrical; Conroe, TX called by: Daniel W. Jackson, , Lawrence T. Bowman, Donald T. Waltz
- David Sutphin; Cause & Origin; Austin, TX called by: Daniel W. Jackson, , Lawrence T. Bowman, Donald T. Waltz
- Donald Galler E.E., P.E.; Electrical; Cambridge, MA called by: Daniel W. Jackson, , Lawrence T. Bowman, Donald T. Waltz
- Thomas Eager Sc.D., P.E.; Materials Science; Cambridge, MA called by: Daniel W. Jackson, , Lawrence T. Bowman, Donald T. Waltz

Defendant(s):

- Jakel Inc.
- NuTone Inc.

**Defense
Attorney(s):**

- Michael A. Shaunessy; Sedgwick Detert Moran & Arnold; Austin, TX for NuTone Inc.
- David E. Chamberlain; Chamberlain McHaney; Austin, TX for Jakel Inc.
- Catherine Kyle; Chamberlain McHaney; Austin, TX for Jakel Inc.
- Kurt W. Meaders; Sedgwick Detert Moran & Arnold; Dallas, TX for NuTone Inc.

**Defendant
Expert(s):**

- E. P. Hamilton Ph.D., E.E., P.E.; Electrical; Pflugerville, TX called by: for David E. Chamberlain, Catherine Kyle
- Don Nichols; Cause & Origin; Pflugerville, TX called by: for David E. Chamberlain, Catherine Kyle
- Carl J. Natale; Cause & Origin; Harrisburg, PA called by: for Michael A. Shaunessy, Kurt W. Meaders, ,
- Colin Thomas M.S., P.E.; Materials; Pflugerville, TX called by: for David E. Chamberlain, Catherine Kyle
- Eliot Duncan E.E., P.E.; Electrical; Hartford, WI called by: for Michael A. Shaunessy, Kurt W. Meaders, ,
- Charles Manning Ph.D., P.E.; Materials; Raleigh, NC called by: for Michael A. Shaunessy, Kurt W. Meaders, ,
- Patrick O'Keefe CPA; Accounting (Forensic); Bloomfield Hills, MI called by: for Michael A. Shaunessy, Kurt W. Meaders, ,

Insurers:

- Hartford

Facts: On July 11, 2004, Cain & Abel's, an Austin restaurant and bar owned by plaintiff More JB Inc., was damaged by fire. More JB claimed that the fire was caused by an exhaust fan in the men's room ceiling. The fan was manufactured by NuTone Inc. It had been installed by Ellis Winstanley, 21, shortly after his father bought More JB in December 2002.

More JB sued NuTone Inc., Cincinnati, for negligence, strict liability and breach of implied warranty, alleging that the fan caused the fire.

NuTone impleaded the manufacturer of the fan's electric motor, Jakel Inc., Highland, Ill., and they asserted claims against each other for indemnity and contribution. The plaintiff later added direct claims against Jakel for negligence, strict liability and breach of implied warranty.

The defendants denied any defect in the fan or motor and denied that the fire started in the area of the fan. They also argued that the plaintiff had performed extensive renovations and electrical work, without required building permits and using unqualified personnel.

A fire captain who investigated the fire for the city testified that the cause was undetermined.

Injury: The plaintiff sought more than \$1.4 million, for property damage and lost business income.

Result: The jury found no negligence, no product defect, and no breach of implied warranty by either defendant.

Trial Information:

Judge: James R. Nowlin

Trial Length: 5 days

**Trial
Deliberations:** 2 hours

Jury Vote: 6-0

Post Trial: The plaintiff intends to move for a new trial.

**Editor's
Comment:** This report is based on information that was provided by plaintiff's and defense counsel.

Writer John Schneider

Products Liability-

Type: Settlement

Amount: \$0

State: Texas

Venue: Federal

Court: United States District Court, Western District, Austin, TX

Case Type:

- *Products Liability*

Case Name: Robert C. Jackson and Jane A. Jackson vs. R. J. Reynolds Tobacco Company, Brown and Williamson Tobacco Corporation, American Tobacco Company, and Phillip Morris Incorporated, No.

Date: June 29, 1998

Plaintiff(s):

- Robert C. Jackson and Jane A. Jackson (Female)

Plaintiff Attorney(s):

- Kathleen A. Gallagher; Vinson & Elkins; Houston TX for Robert C. Jackson and Jane A. Jackson
- Guy C. Fisher; ; Austin TX for Robert C. Jackson and Jane A. Jackson
- Paul E. Stallings; Vinson & Elkins; Houston TX for Robert C. Jackson and Jane A. Jackson

Defendant(s):

- R. J. Reynolds Tobacco Company, Brown and Williamson Tobacco Corporation, American Tobacco Company, and Phillip Morris Incorporated

**Defense
Attorney(s):**

- William E. Marple; Jones, Day, Reavis & Pogue; Dallas, TX for R. J. Reynolds Tobacco Company, Brown and Williamson Tobacco Corporation, American Tobacco Company, and Phillip Morris Incorporated
- Beverly G. Reeves; Vinson & Elkins; Austin, TX for R. J. Reynolds Tobacco Company, Brown and Williamson Tobacco Corporation, American Tobacco Company, and Phillip Morris Incorporated
- Stephen E. Scheve; Shook, Hardy & Bacon; Houston, TX for R. J. Reynolds Tobacco Company, Brown and Williamson Tobacco Corporation, American Tobacco Company, and Phillip Morris Incorporated

Injury:

Plaintiffs sought recovery for personal injuries sustained by use of tobacco products.

Result:

Defendants' Joint Motion for Judgment was granted on 7-1-98. Judgment was granted on multiple grounds but particularly federal pre-emption and § 82.004 of the Civil Practice and Remedies Code which exempts tobacco companies from liability by products in Texas, i.e. tobacco, sugar, etc.

Trial Information:

Judge:

James R. Nowlin

Writer

Products

Type: Verdict-Plaintiff

Amount: \$150,000

State: Texas

Venue: Federal

Court: United States District Court, Western District, Austin, TX

Case Type:

- *Products Liability*

Case Name: Dewey T. Watson, et ux vs. Signode Packing Systems, Inc., Acme Steel Company, Quality Tools Heppenstall Corporation, Liberty Mutual Insurance Co., No. UNKNOWN

Date: April 01, 1996

Plaintiff(s):

- Dewey T. Watson (Male)

Plaintiff Attorney(s):

- Henry Muller; ; Houston TX for Dewey T. Watson
- Ronald J. Tucker; ; Houston TX for Dewey T. Watson

Plaintiff Expert (s):

- Frosty Moore; Orthopedic Surgery; Austin, TX called by:
- Douglas Muster PhD; Agriculture; Houston, TX called by:
- Richard Bean PhD; Economics; Houston, TX called by:

Defendant(s):

- Acme Steel Company
- Liberty Mutual Insurance Co.
- Signode Packing Systems, Inc.
- Quality Tools Heppenstall Corporation

**Defense
Attorney(s):**

- David Livingston; Houston, TX for Signode Packing Systems, Inc.
- Bruce Bieneman; Grand Rapids, MI for Signode Packing Systems, Inc.
- Diane M. Henson; Austin, TX for Signode Packing Systems, Inc.
- Andrew McStay; Houston, TX for Signode Packing Systems, Inc.
- Jeff D. Otto; Austin, TX for Signode Packing Systems, Inc.
- Craig A. Nevelow; Austin, TX for Signode Packing Systems, Inc.

**Defendant
Expert(s):**

- Michael Brown; Engineering; , called by: for

Facts:

Plaintiff was injured on 3-24-92 when a 5,000 lb coil of aluminum rod slinkied open when the bands and seals holding the coil together came apart. The coil was being supported by a C-hook crane at the time that it slinkied apart. The extremely hot coils landed on Mr. Watson's back crushing him to the floor. The coils were removed by forklift. Plts alleged that the banding tool manufactured by Signode was defectively designed and defectively marketed such that when a small band guide, easily broken, broke off, it allowed the bands to be misaligned, thus, resulting in defective seals. Plts further alleged that Acme, who provided the banding material and also had a contract for the maintenance of the banding tools, did not adequately maintain this particular tool. Plts claimed Heppenstall, who manufactured the C-hook, designed a defective C-hook in that it did not have a safety bar on it that would prevent a coil from coming apart. Plts sued Quality Tools who actually performed maintenance on the employer's tools including those manufactured by Signode. All Defs. but Signode settled prior to trial and remaining Defendant, Signode, argued that Mr. Watson had not been adequately trained by his employer to properly inspect seals as he was making them, and that employer had not adequately maintained machine tools that were destined to be subject to use and abuse in an industrial setting. Plaintiff suffered second and third degree burns to his back, left shoulder, back of neck and head; fracture of the L-4 transverse process, numerous rib fractures, and a ruptured spleen. Liberty Mutual had a \$180,807 WC lien - \$55,509 indemnity and \$125,298 medical.

Result:

All Defendants, except for Signode, settled prior to trial for approximately \$150,000. Found no defect or negligence on the part of Signode caused any damages to Plaintiff Damages were not predicated. Awarded: \$0 damages. 6 - 0 (3 day trial)

Trial Information:

Judge:

James A. Nowlin

Writer