

Verdicts & Settlements

Heating-oil leak sickens homeowner, damages property

\$6.23 million verdict

A couple filed suit against an oil delivery company and a home heating service and repair company after an oil leak in their basement resulted in injuries and property damage to their family home.

In December 2009, the plaintiffs ran out of oil at their residence. After having their tank filled and the heat restored by an oil delivery company, the furnace began to puff smoke into the partially finished basement.

The family contacted a heating service and repair company. During the job on the heating system, workers left loose a flange fitting, allowing oil to leak slowly onto the unfinished side of the basement, where it was eventually discovered by the family.

The plaintiffs called the company to remedy the spill, but its attempted remediation included the use of hazardous chemicals, which exacerbated the situation.

Eventually, the local Fire Department, Board of Health and Department of Environmental Protection were brought in to assess the leak, but significant damage had already been done.

There was no dispute at trial that the oil release had occurred; however, there was significant debate over how it occurred and the amount that had leaked.



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The repair company testified that the leak could not have occurred due to its installation of an oil safety valve.

The jury then heard from the plaintiffs' expert, a heat system engineer, as to how the system worked, how the leak occurred, and the repair company workers' duties as oil heat technicians.

In the months following the spill, the husband's health deteriorated to the point where he could no longer work. Later, he became oxygen-dependent.

Prior to the incident, the husband had been in the military and very successful in creating his own business, securing numerous contracts with the U.S. Department of Defense. By the time of trial, his condition had stabilized, but, as his doctor testified, he will be unable to work and will be dependent on oxygen

for the rest of his life.

At the close of evidence, attorneys for the plaintiffs successfully filed a motion for directed verdict against the main defendant's counter-claim of misrepresentation.

After a seven-day trial and five hours of deliberations, the 13-member jury found against the service and repair company. The oil delivery company was found not liable.

The jury awarded the plaintiffs damages of \$7.2 million for personal injuries and \$800,000 for loss of consortium, as well as \$30,000 in property damage. The plaintiffs were found comparatively negligent, which reduced the final award.

Action: Negligence & tort

Injuries alleged: Permanent pulmonary and neurological damage

Case name: Wolniewicz v. The Service Department, et al.

Court/case no.: Middlesex Superior Court, No. 2012-0155W

Jury and/or judge: Jury/Judge Robert Gordon

Amount: \$6.23 million

Date: May 27, 2015

Attorneys: Donald R. Grady and Kelsey R. Raycroft, of Sheff Law Offices, Boston (for the plaintiffs)