

Headline: APPLIANCE FIRM SUED FOR \$450,000

Correction:

PubDate: Wednesday, 11/14/1984

Section: NEWS

Page: 4A

Byline:

Text: By William C. Lhotka Of the Post-Dispatch Staff

An automatic coffeemaker, manufactured by General Electric Corp., malfunctioned on Christmas Eve 1980 and caused a fire that extensively damaged a house in Frontenac, a couple alleged Tuesday in St. Louis County Circuit Court.

Richard and Virginia Klein are seeking more than \$450,000 for damage to their five-bedroom home on Chapel Oaks Road and to home furnishings, including furs and antiques.

The product liability trial before a jury in the courtroom of Circuit Judge Philip J. Sweeney is expected to last at least a week, with expert witnesses testifying for both sides.

Klein is a film and video producer for the American Broadcasting Co. Mrs. Klein is a syndicated columnist whose column "Living with Divorce" appears in the Post-Dispatch.

According to the opening argument by the Kleins' attorney, **Anthony Bruning**, the Kleins and three of Mrs. Klein's four children had been decorating a tree and preparing for a Christmas Eve party on the night of Dec. 23. Mrs. Klein was the last one to go to bed and set the timer on the coffee pot for 7:15 a.m.

Klein got up about 7 a.m., inspected the decorated Christmas tree and went back to bed for 15 minutes, then began taking a shower. While Klein was in the shower, Mrs. Klein got up and found the house full of smoke. She awakened her children and they ran outside. One of her daughters located Klein in the bathroom, and he too escaped without injury.

"From a picture window of a neighbor's house across the street, they watched their house burn, ' **Bruning** said. Firefighters poured 600 gallons of water into the house to contain the blaze.

Frontenac Fire Chief Robert Bongner testified Tuesday that he had traced the fire's origins to the countertop in the kitchen. He alleged that the defective coffee pot had caused the fire.

Gerald Morris, the attorney for General Electric, told the jury that the company had never been notified of the allegations about the coffeemaker until the suit was filed by the Kleins in April 1981. He said evidence would show that the fire might have started in a waste basket adjacent to the kitchen countertop or in the wall's wiring.

"We will demonstrate this coffee pot did not cause the fire, ' Morris said.

Each side expects to call expert witnesses in the case, including professors Lloyd

Brown of Washington University and Ronald Shultz of Cleveland State University.

Photo Unique 8406200491

IDs:

Cutline:

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Headline: **View Detail**

Correction:

PubDate: Thursday, 11/15/1984

Section: NEWS

Page: 3A

Byline:

Text: Judge Declares Mistrial In Suit On Coffeemaker, Cites News Story

A trial over an electric coffeemaker alleged to have caused a house fire in Frontenac on Christmas Eve in 1980 was called off Wednesday after the judge held that an article in the Post-Dispatch was prejudicial. Judge Philip J. Sweeney of the St. Louis County Circuit Court cited a feature story about the fire's aftermath that was published Wednesday in the YOU section of the newspaper. YOU is distributed to subscribers and non-subscribers in the Missouri part of the metropolitan area.

In the product-liability suit, Richard and Virginia Klein are seeking more than \$450,000 from General Electric Corp. for damage to their five-bedroom home on Chapel Oaks Road and to home furnishings, including furs and antiques.

Judge Sweeney sustained General Electric's motion for a mistrial after discussing the article with the attorneys.

'It was an unfortunate coincidence, ' the judge said. 'Those articles are written weeks in advance, there is no way the paper's editors could have known the case would be tried this week.'

The civil trial began Tuesday. The jury was dismissed and the case placed on the Feb. 4 trial docket.

Klein is a film and video producer for the American Broadcasting Co. Mrs. Klein is a syndicated columnist whose column, 'Living with Divorce, ' appears in the Post-Dispatch.

According to the opening argument by the Kleins' attorney, **Anthony Bruning**, Mrs. Klein set the timer on the coffee pot on the night of Dec. 23 for 7:15 a.m. When she got up shortly after that hour, she found the house full of smoke. The family escaped without injury.

Frontenac Fire Chief Robert Bongner testified Tuesday that he traced the fire's origins to the kitchen countertop. He concluded that the defective coffee pot had caused the fire.

Gerald Morris, the attorney for General Electric, contended that a faulty electric can opener -- made by another manufacturer -- could have been the culprit. 'We will demonstrate that this coffee pot did not cause the fire, ' he told the jury.

Photo Unique 8407140292

IDs:

Cutline:

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Headline: JURY AWARDS DAMAGES IN COFFEE MAKER FIRE

Correction:

PubDate: Wednesday, 2/13/1985

Section: NEWS

Page: 6A

Byline:

Text: A Frontenac family who claimed that a defective coffee maker had caused a fire that heavily damaged their home in 1980 has won a \$600,000 jury verdict against the General Electric Corp., the manufacturer.

The judgment was one of the highest property awards ever made by a county jury, according to a longtime judge, St. Louis County Circuit Judge Drew W. Luten Jr. The St. Louis County Circuit Court jury deliberated about eight hours Monday before delivering the verdict in favor of Richard and **Virginia Klein**.

The verdict came just 15 minutes before Judge Philip J. Sweeney was prepared to declare a hung jury. A mistrial was declared in the first trial of the case in November.

The couple had sought damages of \$620,000.

Photo Unique 8504160803

IDs:

GE assessed \$600,000 in house fire

A jury in St. Louis County has awarded damages of \$600,000 to a Frontenac family whose home was extensively damaged in a Christmas Eve fire in 1980.

After five days of testimony in the court of St. Louis County Circuit Judge Philip J. Sweeney, a jury of eight men and four women determined by a 9-3 vote Monday that an electric coffee maker started the fire that gutted the \$300,000 home of Richard and Virginia Klein.

The Kleins and their three children fled from their burning home at 977 Chapel Oaks Road into 20-degree weather on the morning of Dec. 24, 1980. There were no injuries.

THE COUPLE filed suit in 1983 against General Electric Co., alleging that a malfunction in GE's Model DCM 15 coffee

maker started the fire. Their attorney, Anthony Bruning, had sought \$620,000 in damages as a result of the fire, which also destroyed or damaged the Kleins' art and antique collections.

The suit alleged that the coffee maker's thermostat malfunctioned, allowing the appliance to overheat and eventually to ignite. The flames spread to cabinets, and then to other sections of the home. A smoke alarm alerted the family at 7:49 a.m. and they watched their home burn from across the street after fleeing in nightclothes, Mrs. Klein testified last week.

Bruning based his argument to the jury largely on the testimony of Frontenac Fire Chief Robert Bongner, who said he traced the origin of the fire to the home's kitchen.

BONGNER SAID he found the coffee maker "melted" to a counter top in the kitchen. After prying the appliance from the counter, Bongner said the scorched counter and burned cabinets above the counter led him to conclude that the coffee maker had started the fire.

GE's attorney, Gerald Morris, argued that the fire had started in a wastebasket in the kitchen. He said that Bongner was "biased" in his examination of the fire-ravaged home because the fire chief had been called to a house fire shortly before the Klein fire where a coffeepot had ignited.

Electrical engineers, called by each side, had given contradictory testimony about the probable cause of the fire.

Jury Awards \$600,000 Against GE

By Louis J. Rose
Of the Post-Dispatch Staff

A Frontenac family who claimed that a defective coffee maker caused a fire that heavily damaged their home has won a \$600,000 jury verdict against General Electric Corp., the manufacturer.

The judgment was one of the highest property awards ever made by a county jury, according to longtime St. Louis County Circuit Judge Drew W. Luten Jr.

The St. Louis County Circuit Court jury deliberated about eight hours before delivering the verdict in favor of Richard and Virginia Klein about 6:45 p.m. Monday.

The verdict came just 15 minutes before Judge Philip J. Sweeney was prepared to declare a hung jury. A mistrial was declared in the first trial of the case, in November.

It could not be learned immediately whether General Electric would appeal.

The Kleins embraced and Mrs. Klein wept when the jury announced its decision. Later, at a victory celebration, Mrs. Klein said she was "ecstatic" and "numb" over the verdict.

The couple had sought damages of \$620,000 in the



Mrs. Klein



Klein

product liability trial, which ran six days.

The fire occurred on Christmas Eve 1980 and damaged their five-bedroom home on Chapel Oaks Road and destroyed home furnishings, furs and antiques.

Testimony in the trial showed that Mrs. Klein had set the timer on the automatic coffee maker the night of Dec. 23 to turn on at 7:15 the next morning. When she got out of bed shortly after 7:15, she said she found the house full of smoke.

The family escaped without injury.

The Kleins' attorney, Anthony S. Bruning, said he believed that testimony by Frontenac Fire Chief Robert Bongner was a key factor in the jury's verdict.

In a videotape deposition shown to the jury last week, Chief Bongner said that he had traced the origin of the fire to the countertop in the kitchen. He concluded that the coffee maker had caused the fire.

Gerald D. Morris, co-counsel for General Electric, told the jury in closing arguments that the Kleins had failed to prove the coffee maker was defective.

chele's cocaine use and Roger Parks' prior offenses, plaintiffs waived their right to challenge the admissibility of such testimony. A party cannot take advantage of self-invited error. *State v. Kelly*, 689 S.W.2d 639, 640 (Mo.App.1985).

We review for trial court error. A trial court cannot prevent plaintiff from presenting relevant evidence in the presentation of a civil claim. Nor can a plaintiff claim error for the admission of his own evidence. Plaintiffs' remedy was to resist and preserve error on matters considered in the ruling on the motion in limine, if any.

Judgment affirmed.

SIMON, J., and DOUGLAS W.
GREENE, Special Judge, concur.



Richard KLEIN and Virginia
Klein, Plaintiffs,

v. ———

GENERAL ELECTRIC
COMPANY, Defendant.

No. 50040.

Missouri Court of Appeals,
Eastern District,
Division Two.

July 22, 1986.

Motion for Rehearing and/or Transfer to
Supreme Court Denied Aug. 27, 1986.

Homeowners brought products liability action against manufacturer of coffeemaker for damages to home caused by fire allegedly originating in coffeemaker. The Circuit Court, St. Louis County, Phillip J. Sweeney, J., entered judgment in favor of homeowners. The manufacturer appealed. The Court of Appeals, Dowd, P.J., held that: (1) homeowners presented sufficient

evidence that coffeemaker was defective and was cause of fire; (2) homeowners' insurer was not required to be named as party plaintiffs; (3) list of articles contained in home did not violate best evidence rule; (4) trial court did not abuse its discretion in refusing to admit into evidence condition of coffeemaker used by manufacturer in experiment; and (5) trial court did not abuse its discretion in prohibiting defense counsel from cross-examining homeowners' expert regarding expert having been previously named as coconspirator in federal case.

Affirmed.

1. Products Liability ⚡75

To prevail under doctrine of strict liability in tort, plaintiffs must prove product was defective and dangerous when put to a reasonable use anticipated by manufacturer, and plaintiff sustained damage as a direct result of defect.

2. Products Liability ⚡75

To recover on claim of strict liability in tort, plaintiffs must prove that there was defect in product which existed when product left manufacturer's control and entered stream of commerce and that product was put to use reasonably anticipated by manufacturer.

3. Products Liability ⚡82

Existence of product defect may be inferred from circumstantial evidence with or without aid of expert witness in products liability action.

4. Evidence ⚡571(9)

Testimony of expert that product defect was probable cause of incident may constitute substantial evidence that jury could find that incident in question resulted from defect in product rather than from other causes.

5. Products Liability ⚡86

There was sufficient evidence presented that jury could find that coffeemaker was defective when sold by manufacturer and had been put to reasonable anticipated

ANTHONY BRUNING NAMED 1989 NAFI MAN OF THE YEAR

Prominent St. Louis trial attorney Anthony Bruning was awarded the 1989 NAFI Man of the Year award at ceremonies during the NAFI National meetings in Chicago. NAFI president, John Kennedy, CFEL, made the presentation of the Man of the Year plaque, before the assembled NAFI members and 1989 National Training Seminar registrants.



NAFI President, John Kennedy (right) presents the 1989 NAFI Man of the Year Award to Attorney Anthony S. Bruning

In his remarks, John Kennedy praised the selfless contributions which Mr. Bruning has made to the NAFI over the past ten years. Tony Bruning has been a featured speaker at most of the recent annual National Fire and Explosion Investigation Training Seminars. His annual presentations on the intricacies of testimony in fire cases have been extraordinarily well received. Our members and seminar trainees have been the recipients of much valuable information thanks to our 1989 Man of the Year.

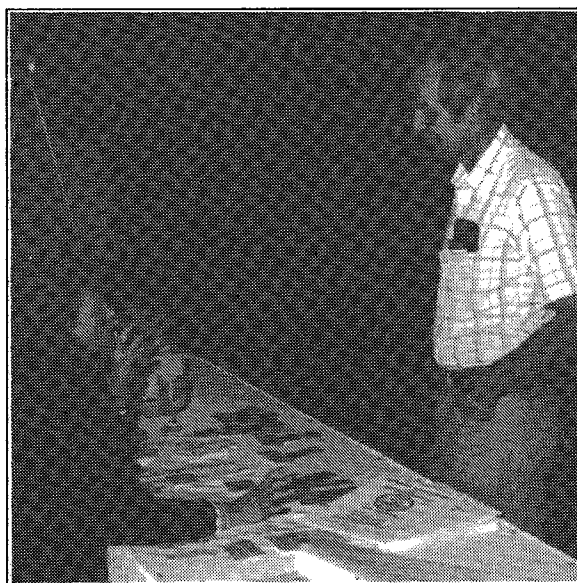
REPORT ON THE 1989 NATIONAL TRAINING SEMINAR

The twenty-seventh annual Training Seminar on Determining the Cause and Origin of Fires, Arson and Explosions was held August 23-25, at the Midland Hotel, in Chicago. This year the training program had been renamed, The National Fire Investigation Training Program. The new name more accurately reflects the programs position as one of the premier fire investigation training programs in the United States. Over the past twenty-seven years, literally thousands of fire investigation professionals have attended these programs and gained immeasurably

from the vast experience, knowledge, and expertise of the instructors.

The 1989 National Fire Investigation Training Program was another success. The new site for the program, Chicago's, newly renovated Midland Hotel, was a highlight of the three days of training, lectures, and discussions. The program administrators, Investigations Institute of Chicago, had made special arrangements with the hotel to provide, not only reduced room rates, but free breakfasts every morning and a free cocktail hour every evening for the program attendees who were staying at the hotel.

The use of the hotel's grand ballroom for the main lectures was also a change from past programs and provided an excellent atmosphere both for learning and the free exchange of ideas which typifies the National Programs.



NAFI Director of membership Services, Jackie Lenhart, registers newly elected NAFI Director George Wilder for the 1989 National Meetings and Training Seminar at the pre-registration desk in set up in the lobby of the Midland Hotel on the evening of August 22.

This year two new types of training lectures were added to the regular series. The hours devoted to pure training topics were expanded and a special lecture session devoted to specific topics chosen by the registrants themselves was added. In this session the registrants could tap the diverse knowledge of the expert speakers. In the early Friday morning session, those registrants who wished to attend, and asked specific questions about topics which were of special interest to them. This year the topics ranged from failure modes of gas regulators and valves, to what could be expected from laboratory tests results of fire debris.



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Family Law**Mother, 81, Wins Damages From Her Son Over Mishandling Of His Father's Estate****SOURCE:** By Tim Bryant**DATE:** November 13, 1989**EDITION:** 5***PAGE:** 3a

Of the Post-Dispatch Staff

PUBLICATION: St. Louis Post-Dispatch**SECTION:**

Of the Post-Dispatch Staff

Depending on your point of view, Lucas vs. Lucas was either a minor family spat or the case of a son who, in the words of one lawyer, "stole from his mother and his dead father."

A federal jury chose the latter viewpoint, ordering the son to pay his mother \$610,000 in damages. Jurors also awarded the woman - Ruth Houck Lucas, 81, of St. Louis - an additional \$1.02 million from a securities firm that carried out trades of stocks from her husband's estate.

The son, Wilder G. Lucas, said Friday that jurors were correct in ordering him to pay his mother.

"The jury came back with, basically, what I asked them for - except for the amount," Lucas, 56, said in a telephone interview from his home, in a suburb of Chattanooga, Tenn.

"I feel that the jury was very fair and, indeed, except for the amount, did everything which I had asked them to. I entered this thing saying, 'Look, I owe money.'"

But he pegged the amount at \$160,000. In the trial, which ended Thursday, he said his mother had agreed to pay him \$550 a day to help in managing the estate, an arrangement that his mother denies.

"These matters were between two members of a family - two close members of a family," he told jurors. "She is my mother, my friend."

But in her testimony, Ruth Lucas said she did not see her son between February 1986 and last month, when they met shortly before the suit went to trial. Ruth Lucas filed the civil suit against her son in 1987.

The securities firm - Oppenheimer & Co. in Chicago - has yet to decide how to fight the jury's verdict, said Craig Newman, the firm's attorney. The suit alleged that Oppenheimer never verified the estate's brokerage account with Ruth Lucas, even though she was the estate's administrator.

Jurors ordered the company to pay Ruth Lucas \$510,000 in actual damages and \$510,000 in punitive damages. Her attorney, Anthony L. **Bruning**, has said the \$610,000 in damages from Wilder G. Lucas was computed by combining the money taken and the value of the stocks had they remained in the estate.

The 16-day trial centered on the \$430,000 estate of Ruth Lucas' late husband, Wilder Lucas, a prominent lawyer and honorary Austrian consul here in the 1930s. Ruth Lucas has a doctorate in clinical psychology. Their children are Wilder G. Lucas and Ruth V. Raycraft of Ottawa.

Wilder Lucas was 82 when he died on Nov. 2, 1983, after a 58-year career in which he became a nationally recognized expert in maritime law.

When he died, Ruth Lucas became the administrator of the estate. She testified that she had managed her financial affairs since the 1920s, making investments based on her research.

Ironically, the trial was held in the same courtroom in which the elder Lucas had argued cases involving barges and towboats.

This case also included the unusual sight of a son cross-examining his mother. At the request of Ruth Lucas' attorney, U.S. District Judge Stephen N. Limbaugh ordered Wilder G. Lucas to stay away from his mother outside the courtroom during the trial. Her attorney, **Bruning**, told Limbaugh that Wilder G. Lucas had undue influence over her.

Bruning said at the trial that Wilder G. Lucas had taken \$371,000 from his father's estate and "thousands" more from his mother.

After Wilder Lucas died, his son offered to help Ruth Lucas and her attorneys manage the estate. **Bruning** said Wilder G. Lucas had persuaded his mother to sign a stack of blank checks on the estate's bank account




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dozens of papers."

While Ruth thought that . . . everything was OK, Wilder was slowly but surely taking all the things in his father's estate," **Bruning** told the jury.

In 1984 and 1985, the son wrote checks totaling \$237,200, the suit contended. In addition, Ruth Lucas accused her son of using stocks from the estate to open a brokerage account with Oppenheimer & Co. in Chicago.

Wilder G. Lucas used \$119,000 from that account to help buy a yarn factory near Chattanooga, the suit said. **Bruning** told jurors the business venture "failed miserably."

In November 1985 Ruth Lucas learned what had happened to the estate. She testified that she had been amazed by her son's actions.

"I never would have expected that of him," she said.

She told jurors she never agreed to pay him \$550 a day or to lend him money for business investments. She added that she had rescinded a personal power of attorney that she gave him in 1983.

"I thought I had better cancel that out . . . because I was afraid he might take my money," she said.

Ruth Lucas also testified that her son had come to her while she had influenza and pressured her into signing a letter firing the estate's attorneys. She said she went to the lawyers the next day and rehired them.

Raycraft declined Friday to discuss the case. She said her mother did not want to talk about it, either.

Wilder G. Lucas acted as his own attorney in the long trial. He said hiring a lawyer would have cost too much.

"Very frankly, I was quoted a figure of \$50,000 to be represented," he said. "I can do a lot of things with 50 grand."

Caption: PHOTO...Ruth Houck Lucas, with her late husband, lawyer Wilder Lucas, in a 1960 photo...

Correction:

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Suit Blames Coffee Pot For Fire In Frontenac

■ **CLAYTON:** A couple from Frontenac filed suit Friday in St. Louis County Circuit Court seeking \$10 million in punitive damages from General Electric Co. over a automatic coffeemaker that they say was defective. The petition reinstates a claim dropped from a previous suit.

The couple, Richard and Virginia Klein of the 900 block of Chapel Oaks Road, won \$600,000 in actual damages from GE after a trial in February 1985. They had contended that the coffeemaker had caused a fire that extensively damaged their home Dec. 24, 1980. Mrs. Klein testified that she had set the timer the night before and awakened to a house full of smoke.

The couple had sought \$10 million in punitive damages, but dropped that claim during the trial. Their suit filed Friday said that they dropped the punitive claim because company officials had said that they had no knowledge of other fires or property damage caused by the coffeemakers.

The suit contends that after the claim for punitive damages was dropped, a GE official testified that since 1982, the company had been notified of 60 other coffeemakers overheating, in many cases from thermostat and fuse failures.

□□□

Judge Declares Mistrial In Suit On Coffeemaker, Cites News Story

A trial over an electric coffeemaker alleged to have caused a house fire in Frontenac on Christmas Eve in 1980 was called off Wednesday after the judge held that an article in the Post-Dispatch was prejudicial.

Judge Philip J. Sweeney of the St. Louis County Circuit Court cited a feature story about the fire's aftermath that was published Wednesday in the YOU section of the newspaper. YOU is distributed to subscribers and non-subscribers in the Missouri part of the metropolitan area.

In the product-liability suit, Richard and Virginia Klein are seeking more than \$450,000 from General Electric Corp. for damage to their five-bedroom home on Chapel Oaks Road and to home furnishings, including furs and antiques.

Judge Sweeney sustained General Electric's motion for a mistrial after discussing the article with the attorneys.

"It was an unfortunate coincidence," the judge said. "Those articles are written weeks in advance, there is no way the paper's editors could have known the case would be

tried this week."

The civil trial began Tuesday. The jury was dismissed and the case placed on the Feb. 4 trial docket.

Klein is a film and video producer for the American Broadcasting Co. Mrs. Klein is a syndicated columnist whose column, "Living with Divorce," appears in the Post-Dispatch.

According to the opening argument by the Kleins' attorney, Anthony Bruning, Mrs. Klein set the timer on the coffee pot on the night of Dec. 23 for 7:15 a.m. When she got up shortly after that hour, she found the house full of smoke. The family escaped without injury.

Frontenac Fire Chief Robert Bongner testified Tuesday that he traced the fire's origins to the kitchen countertop. He concluded that the defective coffee pot had caused the fire.

Gerald Morris, the attorney for General Electric, contended that a faulty electric can opener — made by another manufacturer — could have been the culprit. "We will demonstrate that this coffee pot did not cause the fire," he told the jury.

Court Upholds \$600,000 Award In Suit Over Fire

The Missouri Court of Appeals at St. Louis has affirmed a jury's award of \$600,000 to a couple who claimed that a defective coffeemaker started a fire that heavily damaged their home in Frontenac.

Richard and Virginia Klein had filed suit against General Electric Co., which made the coffeemaker. The Kleins won their case after a trial in December in St. Louis County Circuit Court.

General Electric's attorneys argued that the lower court had erred in 10 ways. But on Tuesday, the appeals court rejected the arguments.

The fire occurred about 7:50 a.m. on Dec. 24, 1980. The fire destroyed furnishings, furs and antiques in the Kleins' five-bedroom home on Chapel Oaks Road.

Virginia Klein is a syndicated columnist whose column "Living with Divorce" appears in the YOU section

of the Post-Dispatch. Her husband is a film and video producer.

The Kleins said they had spent \$225,000 to repair the home. They said that they had lost \$370,000 in personal property and that living expenses had totaled \$25,000. About half of the loss was covered by insurance, they said.

Presiding Judge Robert G. Dowd wrote the appeals court decision. Concurring were judges James R. Reinhard and Robert E. Crist.

Channel 4, in Indianapolis from Capitol Broadcasting. The purchase will bring to four the number of television stations under the umbrella of the St. Louis broadcasting company — the largest here. . . .

The Baker-Marcus connection also owns Fox Broadcasting affiliate Channel 30, which carries "America's Most Wanted." And the cameras from that show have been focusing on our environs the last few days to capture the saga of Steve Huffman. Huffman has been on the "wanted list" in Franklin County for skipping bail on kidnapping and rape charges in April 1987.

As "Most Wanted" recounts the case, in January of that year, Huffman's wife, Joyce, left him, citing possessive, violent behavior. He allegedly then kidnapped one of her nieces in an attempt to learn his wife's whereabouts and kept the niece prisoner in a small camping trailer in the woods for two days, but finally dropped her off, unharmed, in St. Louis. Four days later, he allegedly kidnapped another woman and raped her. He was finally captured and reportedly confessed to the crimes. In April 1987, he was released on \$50,000 bond, left our town and hasn't been heard from since. Actor T. Max Graham will

wife, Jinny.

They sued G.E. to recover their financial loss and to pressure the company into recalling that model of coffee maker. In 1984, the Kleins won a jury verdict of \$600,000 against G.E. Based on another incident since the Kleins' victory, G.E. recalled the appliance.

PEOPLE IN PLACES: What do Mets do in the off-season? Well, in the case of New York Mets pitcher Sid Fernandez, he'll be a-strumming, now that he's bought no fewer than six guitars from Dan Martin and Bryan Greene at their Guitar Exchange. . . .

"We're making plans now in anticipation of the Roe vs. Wade decision being overturned in two years," offered B.J. Isaacson-Jones, president and chairwoman of Reproductive Health Services. While dining at Cafe Zoe on Thursday night with her hub, Michael, a computer software consultant, B.J. explained, "We will pay our staff a fair severance, pay all our debts and flip back into a referral service providing counsel to women on going to other states where abortions are legal." B.J. also said that 30 percent of Reproductive's clients have income below

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Wed., Nov. 14, 1984

POST-DISPATCH

Appliance Firm Sued For \$450,000

By William C. Lhotka
Of the Post-Dispatch Staff

An automatic coffeemaker, manufactured by General Electric Corp., malfunctioned on Christmas Eve 1980 and caused a fire that extensively damaged a house in Frontenac, a couple alleged Tuesday in St. Louis County Circuit Court.

Richard and Virginia Klein are seeking more than \$450,000 for damage to their five-bedroom home on Chapel Oaks Road and to home furnishings, including furs and antiques.

The product liability trial before a jury in the courtroom of Circuit Judge Philip J. Sweeney is expected to last at least a week, with expert witnesses testifying for both sides.

Klein is a film and video producer for the American Broadcasting Co. Mrs. Klein is a syndicated columnist whose column "Living with Divorce" appears in the Post-Dispatch.

According to the opening argument by the Kleins' attorney, Anthony Bruning, the Kleins and three of Mrs. Klein's four children had been decorating a tree and preparing for a Christmas Eve party on the night of Dec. 23. Mrs. Klein was the last one to go to bed and set the timer on the coffee pot for 7:15 a.m.

Klein got up about 7 a.m., inspected

the decorated Christmas tree and went back to bed for 15 minutes, then began taking a shower. While Klein was in the shower, Mrs. Klein got up and found the house full of smoke. She awakened her children and they ran outside. One of her daughters located Klein in the bathroom, and he too escaped without injury.

"From a picture window of a neighbor's house across the street, they watched their house burn," Bruning said. Firefighters poured 600 gallons of water into the house to contain the blaze.

Frontenac Fire Chief Robert Bongner testified Tuesday that he had traced the fire's origins to the countertop in the kitchen. He alleged

that the defective coffee pot had caused the fire.

Gerald Morris, the attorney for General Electric, told the jury that the company had never been notified of the allegations about the coffeemaker until the suit was filed by the Kleins in April 1981. He said evidence would show that the fire might have started in a waste basket adjacent to the kitchen countertop or in the wall's wiring.

"We will demonstrate this coffee pot did not cause the fire," Morris said.

Each side expects to call expert witnesses in the case, including professors Lloyd Brown of Washington University and Ronald Shultz of Cleveland State University.

Man, 19, Is Wounded By Hunting Partner

Special to the Post-Dispatch

SHELBYVILLE, Mo. — A hunter was injured Tuesday when his hunting partner's rifle discharged and wounded him in the back, the Shelby County sheriff's department said.

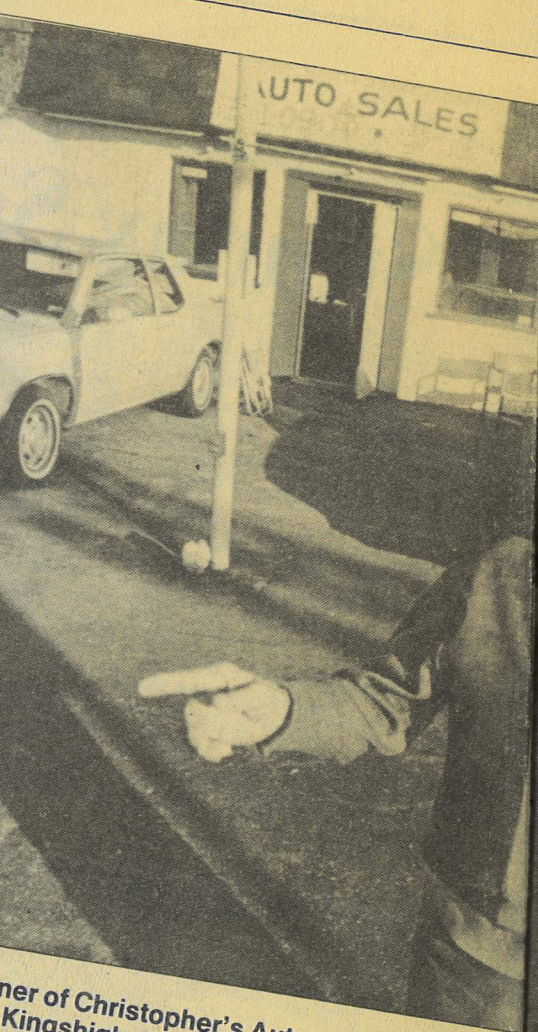
The victim, Joe Kiser, 19, of Shelbyville, was taken by helicopter to the University of Missouri Medical Center in Columbia.

Sheriff's Deputy Kenny Wise said the shooting appeared to be

accidental.

Wise said Kiser had been struck at close range with a round from a deer rifle. He said Kiser had been in critical condition when he was taken to Columbia. A hospital spokesman declined to give Kiser's condition.

Wise said the shooting had occurred about 11 a.m. in a field north of Shelbyville, which is about 120 miles northwest of St. Louis.



Owner of Christopher's Auto Kingshighway, showing the direction riaped after the two exchanday.

Wind Selves Dodgefire

67, fired a shot at the man through the rear window. The gunman ordered the startled Compton to drive off. A short distance away he released the teen-agers. The man then drove off in Compton's station wagon. He and the vehicle were being sought Tuesday night.

"I'm sure glad they didn't get hit," said Christopher, owner of Kingshighway. "I thought I was shooting at the getaway car."

"I've offered to pay for the window."

The incident began after Christopher arrived at his home about 7 p.m.

as I got in I went I keep a gun,"

see this guy inside at ran out the back couple of shots at mm."

fled, he grabbed Chefcase containing abd keys and titles, Chi

on off but then found him he burglar, who was desog 45 to 50 years old. "Ing, 'Stop that thief!'"

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Coming Soon...

COURT REPORT

Neither Bell nor Ms. Smith were injured.

Court overturns judgment

A South St. Louis man has lost a \$50,000 court judgment returned earlier against his former employer.

The Missouri Court of Appeals at St. Louis ruled Tuesday that Clay W. Dippel was not entitled to the \$50,000 punitive damages awarded earlier by a St. Louis Circuit Court jury. It affirmed a \$1 nominal judgment.

Dippel had sued his former employer, the Taco Bell Corp., for violation of the Missouri service letter statute, which requires discharged employees to be furnished a letter, on request, stating the reason for the discharge and a list of their former duties.

The \$50,000 jury award was made on basis of Dippel's charge that the service letter supplied to him was deficient.

But in overturning the verdict, the appeals court said that current law does not allow punitive damages on "the content of any such letter," but only "when there is evidence that the employer failed to furnish a service letter when an employee requests one."

Liability judgment affirmed

In a decision Tuesday, the Missouri Court of Appeals at St. Louis affirmed a

\$600,000 product liability judgment to a Frontenac couple.

A St. Louis County Circuit Court jury had awarded Richard and Virginia Klein damages in that amount as a result of a Dec. 24, 1980, fire that originated in an automatic coffeemaker.

The court rejected appeals from the coffeemaker's manufacturer, the General Electric Co., that the Kleins failed to present evidence showing that the coffeemaker was defective and the source of the fire.

The evidence presented was sufficient to convince a jury that the coffeemaker caused the fire, the court ruled.

New damages trial ordered

The Missouri Court of Appeals at St. Louis has ordered a new trial on the amount of damages awarded to a St. Louis County man over a false return of a summons.

The court ruled Tuesday that a \$42,000 judgment against St. Louis County Sheriff David Blackwell was excessive. It agreed, however, that Blackwell was liable for damages.

Thomas E. Benz had sued Blackwell for certifying that Benz had been served a summons in a divorce case when he had not been served.

Benz claimed damages of \$18,435 because he was found in contempt of court and had wages garnished after the citation was supposedly served on him.

THE ST. LOUIS COUNTY

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County Circuit Court Daily Proceedings

Calendar

Judge Alphonso H. Voorhees
Presiding Judge

Hon. Robert G. Ruhland
Director of Judicial
Administration

Patricia Tobias, Circuit Clerk
889-3029

Assignment Court Clerk
889-2671
Juvenile Court
Information 889-3400
Clerk 889-2972

Division No. 1 - Team C
Judge Margaret M. Nolan
Division No. 2 - Team A
Judge Harry J. Stussie
Division No. 3 - Team B
Judge Richard T. Enright
Division No. 4 - Team A
Judge Bernhardt C. Drumm, Jr.
Division No. 5 - Team A
Judge Arthur Litz

Division No. 6 - Team C
Judge Robert W. Saitz
Division No. 7 - Team A
Judge William M. Corrigan
Division No. 8 - Team D
Judge Robert G. J. Hoester
Division No. 9 - Team B
Judge Kenneth M. Weinstock
Division No. 10 - Team C
Judge Drew W. Luten, Jr.
Division No. 11 - Team B
Judge Edward L. Sprague
Division No. 12 - Team D
Judge Ninian M. Edwards
Division No. 13 - Team A
Judge Alphonso H. Voorhees
(Presiding Judge)
Division No. 14 - Team C
Judge James R. Hartenbach
Division No. 15 - Team A
Judge Robert Lee Campbell
Division No. 16 - Team B
Judge Richard F. Provaznik

Continued on Page 26

County Probate Daily Proceedings

Defect will cost G.E. \$600,000

Appeals court affirms jury verdict after coffeemaker burns down Frontenac house

By Will Connaghan

A product liability case that's been brewing for six years was decided Tuesday by the Missouri Court of Appeals.

The court upheld a \$600,000 jury verdict in the case of a Christmas Eve house fire in Frontenac that the court said was caused by a defective General Electric coffeemaker.

The case of *Richard Klein and Virginia Klein vs. General Electric Co.* was first heard in February, 1985 in the Circuit Court of St. Louis County. The appeals court action was argued in February of this year.

The court denied all ten of General Electric's points on appeal of the Circuit Court ruling that awarded the Kleins the verdict.

Gerald Morris of Shepherd, Sandberg & Phoenix, the attorney for General Electric said his clients are considering whether or not to file for a rehearing of the case.



"It is my guess that they will want to appeal," Morris said.

Tony Bruning of Leritz, Reinert & Duree, the Klein's attorney, said his clients were relieved about the decision.

"It's been a long drawn out battle, but we did get some justice in the case," Bruning said.

Bruning said he thinks General Electric still has a similar coffeemaker, with a similar defect, on the market.

The fire broke out in the Klein home on Dec. 24, 1980.

Mrs. Klein had set the General Electric Brew Starter automatic coffeemaker, Model DCM15, to brew coffee at 7:15 a.m.

Mr. Klein awoke at 7 a.m. and there was no fire present.

At approximately 7:50 a.m. the home fire alarm went off and Mrs. Klein said she saw that the rooms of the house were filled with smoke and a glow of light was coming from the kitchen. The family escaped from the house

Continued on Page 32

Liberals alter plans to force Manion vote

By Charley Roberts
ACCN News Service

WASHINGTON — Senate Democrats, in a private meeting July 15, have apparently dropped

nion nomination up for a vote.

The Senate's 47 Democrats, meeting behind closed doors, discussed the various options outlined by California Sen. Alan

such a ploy could "backfire" with the public.

That leaves the Democrats with precious few potential hostages. There are no judicial confirma-

NEWS ANALYSIS

MONDAY, FEBRUARY 21, 1994

Malpractice Case Awards D

'86 Law Ended 'Frivolous' Ones

By Tim Bryant
Of the Post-Dispatch Staff

THE LAST FEW weeks of Renetta Reece's pregnancy in 1983 were especially uncomfortable ones. Her husband, Robert Reece Jr., said: "She was really big. You noticed she was getting quite large."

On Nov. 26, 1983, Renetta Reece gave birth to a child — a whopper. Robert D. Reece III weighed 12 pounds, 1 ounce. Shock quickly replaced Robert Reece's joy in watching his son's birth.

"He was all black and blue," Reece said. "It looked like he had been through a boxing match."

The infant's left arm was fractured. Doctors quickly discovered something even worse: His right arm was paralyzed.

Now 10, Robert III is a sturdy, happy 100-pound third-grader, despite his disability.

"We mostly play kickball, because I can use my feet," he says.

And he should have enough money to last his whole life.

On Oct. 21, a St. Louis Circuit Court jury awarded Robert \$3.1 million for the lost use of his right arm. His "shoulder dystocia" case got the largest medical malpractice judgment in the state last year, Missouri Lawyers Weekly reported.

Robert's case shows how changes in Missouri law altered lawyers' approach to medical malpractice claims. Fewer lawsuits are being filed, and they're harder to win, lawyers say. The changes also turned malpractice insurance into a big moneymaker, made it more difficult to win lawsuits against doctors and put limits on pain and suffering awards.

"I have no resentment or malice in my heart for the doctors involved," Reece said. "The money was just a reward I thought my son should have for what happened to him. The system worked for me."

Here's a look at that system.

A Malpractice Reform 'Pioneer'

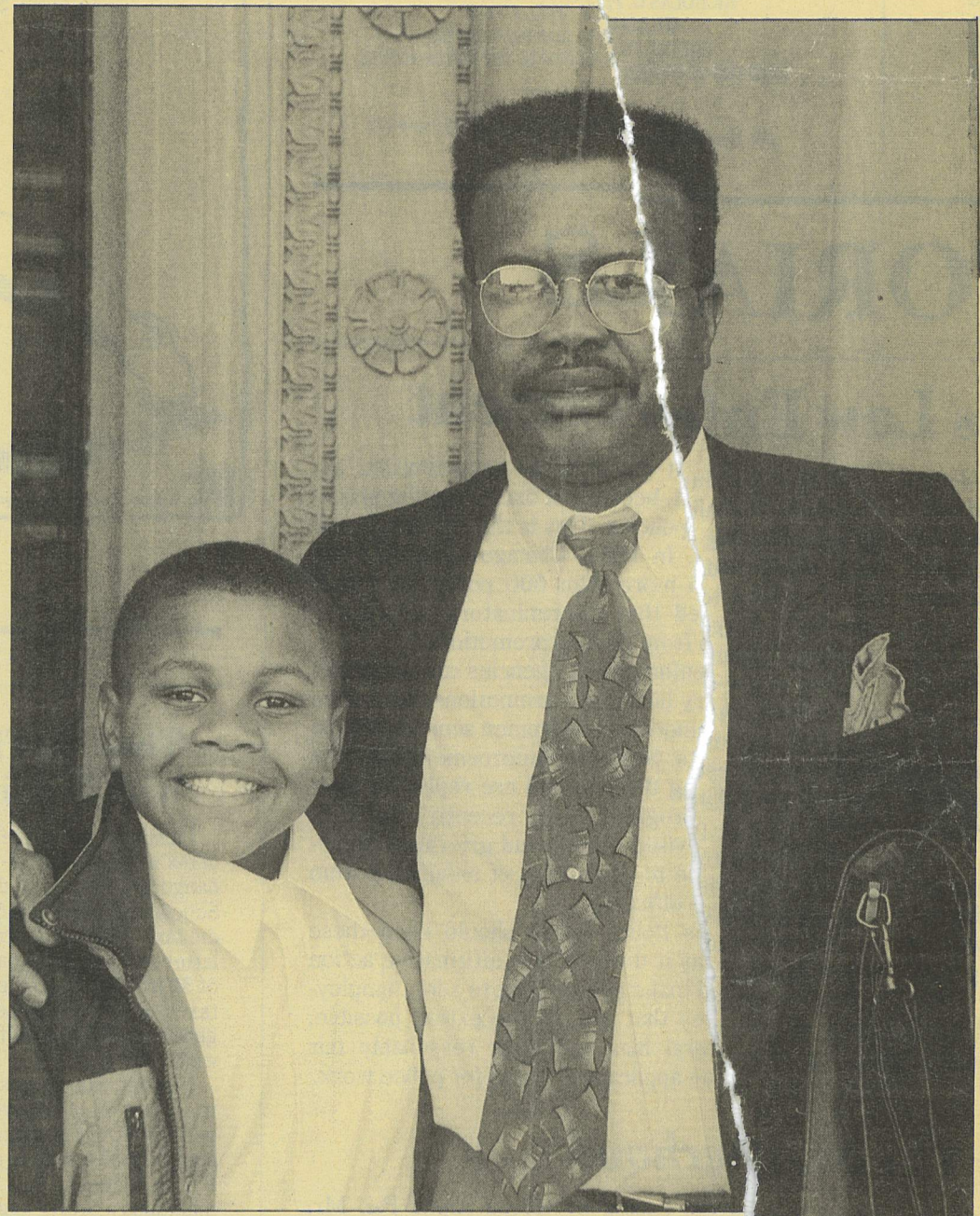
Few "medmal" cases were filed in Missouri until 1969. That was when the Missouri Supreme Court abolished "charitable immunity," exposing many more hospitals to malpractice claims.

By the mid-1970s, malpractice insurance was difficult to get because of the growing number of suits. In 1975, a new state law allowed doctors to form their own companies to provide malpractice insurance.

Also in the 1970s, a state law established a legal hoop for plaintiffs to jump through. The law required that six-member review panels screen malpractice claims before suits could be filed. The intent was to limit such medmal suits.

The state Supreme Court threw out the screening panels, ruling they were an unconstitutional restriction on access to the courts.

By the late 1970s and early 80s, medical malpractice insurance was a money loser for insurers, as settlements and judgments outstripped premium payments. In 1984, for ex-



Robert Reece III, 10, with his dad, Robert Reece Jr., after a St. Louis Circuit Court jury awarded the boy \$3.1 million for the lost use of his right arm. Ted Dargan/Post-Dispatch

ample, insurers earned \$39 million in premiums but paid out more than \$53 million as losses.

As a result, the legislature asked doctors groups, hospitals, insurance companies and lawyers to propose a cure.

What emerged, in 1986, was a law that made Missouri "a legitimate pioneer" in medical malpractice reform, said James P. Holloran, a St. Louis lawyer on the advisory group.

The law requires a plaintiff's attorney to file an affidavit in which a doctor says the plaintiff has a good case. The affidavit, less burdensome than the earlier screening panels, must be filed within 90 days of when a medical malpractice suit is filed.

Many states now have such a rule. In Illinois, affidavits must be submitted when a suit is filed and include the medical expert's report.

The biggest change made by the 1986 law the limit put on the amount of money a plaintiff can get for "pain and suffering" resulting from medical malpractice.

The limit, first set at \$350,000, floats with

the inflation rate. Currently the cap is \$462,000 in Missouri. Many states have similar caps, although Illinois does not.

Medical malpractice insurance has once again become profitable in Missouri. The state Insurance Department reported two months ago that in 1992 insurers paid out \$51 million as medmal losses, but earned \$96 million in premiums.

Robert G. Burrige, a lawyer who defends doctors, said the changes had eliminated the "really frivolous" and "stupid little cases."

"What we are seeing now are the big, bad cases," he said.

In addition, the cap on pain and suffering means jurors now hear economists as well as medical experts testify about a plaintiff's lost economic damages.

Burrige said the emphasis on these damages, on which there are no limits, brings "a whole different breed of experts" to medmal trials.

ect to defendant complying
ditions
r Plaintiff: Andrew J.
arrensburg
urrier: Mendota Insurance
subsidiary of Northland)
perts: Gerald Olson, Prai-
KS (economist)
Experts: N/A

Case: Defendant was drunk
drove his car across the
of the road, forced one on-
off the road, and collided
th the next oncoming car,
driver and causing serious
the driver's wife and two
Plaintiffs' attorney offered
e wrongful death claim for
per-person policy limit, but
l was contingent on defend-
ing with certain conditions.
nce company refused the
tle and refused to pay the
room bill or funeral bills,
s filed the wrongful death

urance company claims it
mply with plaintiffs' condi-
also claims that within 60
ceiving plaintiffs' demand,
o pay the \$25,000 policy
n unconditional release of
l death claim, and that that
ver withdrawn.

t was a 40-year-old me-
earned about \$17,000 per
dition to the two injured
had three grown children
ious marriage. The judge
es interest at the statutory
e 61st day after plaintiffs'
the date of the judgment.
wife has now filed suit for
d injuries, and claims for
s to the two children are

Negligence **Severed Finger** **\$53,000 Settlement**

n: Personal injury
ies: Loss of middle finger
hand
Date: Jasper County Cir-
V189-671CC/Nov. 20, 1994
hts v. Joines v. Biemdiek

ry Case: Settled without

ge: George C. Baldrige
lmed: \$7,500 past medical
s of finger
r Verdict: \$53,000 settle-

Plaintiff: John C. Banning,

urrier: Employer's Reinsur-
and omissions carrier for
defendant Beimdiek Insur-

perts: Dr. Duane Sherrod,
ating surgeon); Wilbur
, Springfield (vocational

Experts: None identified
Case: Plaintiff was work-
ery store owned by defen-
s when she caught the

that, by failing to procure a workers
comp policy, the agent broke a prom-
ise to provide Joines with all the in-
surance he needed. Biemdiek claimed
Joines knowingly declined to purchase
workers' comp insurance.

Premises Liability **Two Deaths; Burn Injuries** **\$1,000,000 Settlement**

Type of Action: Premises liability
Type of Injuries: Two deaths; extensive
burn injuries to two other victims

Court/Case #/Date: St. Louis City Cir-
cuit Court/942-01830/December 29,
1994

Caption: Burr, et al. v. J-V-L Housing,
et al.

Judge or Jury Case: Settled without
trial

Name of Judge: Thomas Mummert

Damages Claimed: Death of 30-year-old
unemployed mother of four fatherless
children; death of one child; nearly \$1
million past medical expense for an-
other child; other past and future medi-
cal expense

Settlement or Verdict: \$1,000,000
settlement with one of three defendants

Attorney for Plaintiff: Anthony S.
Bruning, St. Louis

Insurance Carrier: Colonia Ins.

Plaintiff's Experts: Identified, but none
utilized for settlement of this claim

Defendant's Experts: None identified

Facts of the Case: The 30-year-old
woman lived with her four children in
a Section 8 housing unit in a high crime
area of St. Louis. She and one of her
children died, and another child and a
guest were injured as a result of a fire
of unknown accidental origin in the
residence. After the fire began in a
mattress on the second floor, the
woman dragged the mattress down-
stairs and attempted to leave through
the front door, but could not do so.
Plaintiffs claimed the door was locked
and barred and the woman could not
find a key to unlock it.

Plaintiff claimed the building's
owner, a not-for-profit corporation, had
locked and barred the doors to provide
security for tenants, even though it
knew this violated the city's fire code,
and that the building had no smoke
detectors. Plaintiffs also said the
woman had complained about the se-
curity features, but that the lease for-
bade any modifications, and the land-
lord refused to permit changes.

The injured child, a five-year-old boy
who suffered third degree burns
over two-thirds of his body, spent
three months in the intensive care
unit of the burn center at St. John's
Hospital, and another three months in
Cardinal Glennon Hospital. He also suf-
fered some brain damage, and injuries
to his larynx, esophagus, and lungs.

Plaintiffs sued the landlord, its
leasing agent, and the manufacturer
of the security devices for actual
and punitive damages. All plaintiffs
agreed to a settlement with the
landlord for the one million dollar
limit of its insurance policy. Claims
against the other defendants are still
pending.

Judge or Jury Case: Settled without
trial

Name of Judge: William M. Corrigan
Damages Claimed: \$30,000 past medi-
cal expense; \$3,000-\$4,000 future medi-
cal expense

Settlement or Verdict: \$105,000 settle-
ment

Attorney for Plaintiff: Norman A.
Selner, Clayton

Insurance Carrier: Amerisure

Plaintiff's Experts: Dr. Gregory C.
Rinehart, St. Louis (treating plastic
surgeon); Dr. Thomas Pittman, St.
Louis (treating neurosurgeon)

Defendant's Experts: Timothy C. Finley,
St. Louis (accident reconstruction)

Facts of the Case: As the nine-year-old
plaintiff waited for a school bus with
several other students, defendant's mo-
bile crane struck a cantaloupe-sized
chunk of asphaltic concrete and hurled
it through the air, striking plaintiff in
the head. The projectile also struck
two other students, and four or five
students witnessed the incident.

Plaintiff claimed the crane drove
over the curb, dislodging the chunk of
concrete; or alternatively the object was
lying in the street, plainly visible to
the crane operator, who nonetheless
drove over the object, thrusting it into
the air in the manner of tiddly winks.
The operator of the crane denied knowl-
edge of the event, and did not stop,
even though he saw students waving
at him as he proceeded down the street.

Doctors placed wire mesh in
plaintiff's forehead to replace crushed
bone. Plaintiff suffers from a barely
perceptible droop of one eyelid, and the
eye socket is slightly lower than it was
before the accident.

Breach Of Contract **\$175,000 Verdict;** **\$72,861 Verdict On** **Counterclaim**

Type of Action: Breach of franchise
agreement, tortious interference, con-
version of records; counterclaim for
breach of lease agreements

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Attorneys for Plaintiff:

James, Jr., Karl B. Zo

G. Mazurek, Kansas Ci

Attorneys for Defendant:

Rachel Baker and Ly

Kansas City

Plaintiff's Experts: Lav

Kansas City (C.P.A.)

Defendant's Experts: J

Ph.D., Kansas City (eco

Facts of the Case: Plain

franchise from defenc

Tire & Rubber Compan

ness failed, and plain

breach of the franchise

asserted other claims.

a counterclaim for balan

and on an equipment re

Plaintiff said Goodye

send him to a franchisee

within six weeks after l

franchise, "but that th

school was repeatedly

the school was event

Goodyear denied that

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chise agreement. Plain

was woefully undertrain

business to fail.

Plaintiff also alleged

to provide him with ad

ers. He claimed Goody

terminated his credit, b

to give him credit for g

sales to which he

Goodyear said it gave p

its to which he was ent

Plaintiff's expert test

its plaintiff lost as a

breach of the agreemen

paid a franchise fee o

had borrowed \$32,500 t

minority financing arm

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Anthony S. Bruning

is a member of the

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membership in which is limited to Trial Lawyers who have demonstrated

exceptional skill, experience and excellence in

Advocacy by achieving a trial verdict, award or settlement

in the amount of One Million Dollars or more.

JUN 20 1988

PHILIP J. SWEENEY
JUDGE OF THE CIRCUIT COURT
OF ST. LOUIS COUNTY
CLAYTON, MISSOURI 63105

June 17, 1988

Robert M. Susman
President
Lawyer's Association of St. Louis
1010 Market Street-Suite 1300
St. Louis, Missouri 63101

In Re: Anthony S. Bruning
Lon Hocker Trial Practice Award

Dear Bob:

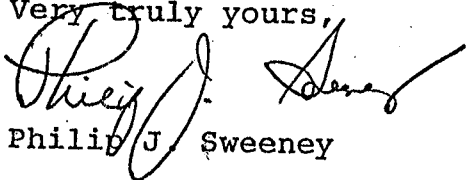
I would like to nominate Anthony S. Bruning for the Lon O. Hocker trial practice award.

Tony has appeared before this Court on numerous occasions during the past eight years. He has always been exceedingly well prepared, exhibited the highest demeanor, and shown the utmost respect at all times to the Court and his adversaries, all outstanding attributes which are constantly promoted by the Lawyers Association of St. Louis.

He was the winning attorney in (February 1985) Klein v. General Electric Company, Cause No. 538456, tried before me in St. Louis County. The case took eight days, was exceptionally well tried, and at the time was one of the largest products verdicts in St. Louis County.

Anthony S. Bruning would be a truly worthy recipient of this prestigious award.

Very truly yours,


Philip J. Sweeney