

IN THIS ISSUE:

A. Automobiles and Motor Vehicles, p. 2.

2007 Dodge Ram \$2.5 Million Verdict

B. Consumer Products for Personal and Home Use, p. 5.

Powermate Air Compressor — \$546,320.47 Judgment

C. Industrial Products Used in Manufacturing or Fabricating Other Products, p. 6.

GIMECO Galvanizing Equipment — \$200,000 Settlement

D. Industrial Products Used in Constructing Buildings, Structures and Roads, p. 6.

Garbage Truck — \$6.5 Million Settlement

E. Food and Products for Human Consumption, p. 7.

Cigarettes \$8.55 Million Verdict

F. Building Materials and Components, p. 9.

Conveyor System — Defense Verdict

G. Aircraft and Watercraft, p. 9.

2007 Sea-Doo GTI — \$5 Million Net Verdict

H. Sports and Recreational Equipment, p. 10.

Mundo V4 Cargo Bikes Recall

I. Office Use Products or Products Used in Merchandising or Commercial Service Operations, p. 10.

Stackable Chairs Recall

J. Drugs and Medical Devices, p. 10.

“Gynecare Prolift” Pelvic Mesh — \$11 Million Verdict

K. Agricultural and Gardening Machinery and Products, p. 12.

Homelite Electric Blower Vacuums Recall

L. Electronic and Electrical Equipment, p. 13.

HP Computer — Defense Verdict

M. Firearms, Weapons, Military Equipment and Devices, p. 13

Soft Air Swiss Arms Break-Barrel, Single-Shot Air Rifle Recall

N. Chemicals, Solvents, Cleaners and Compounds, p. 1.

Silica Sand — \$1.649 Million Gross Verdict

O. Mining, Extraction and Quarrying

No report this month

P. Railroad, Transit, Pipeline and Other Transportation Products, p. 14.

Railroad Tamper — \$5 Million Settlement

Q. Toys and Children’s Products, p. 15.

Hello Kitty City Motor Scooters

R. Measuring, Analyzing and Controlling Instruments and Devices, p. 16.

Remote Control Car Battery Charger Defense Verdict

S. Asbestos, p. 16.

Brake Pad Exposure \$4.4 Million Verdict

Reader's Exchange

ICON Health & Fitness Pro-Form Model 745cs Treadmill. This treadmill is designed to be stored with the running deck latched in the upright position. Injury occurred when treadmill unexpectedly came unlatched and the deck collapsed on an individual who had knelt down to remove shoes. Contact Christopher J. Skorina, 26691 Plaza, Suite 200, Mission Viejo, CA 92691, (949) 582 1544.

Fisher & Paykel Humidifier and/or Cardinal Health/Allegiance Respirator. Malfunction caused severe burns to a newborn in the NICU. Contact Clifford Britt, 250 West First Street, Suite 200, Winston-Salem, NC 27101, (336) 631-8510.

Bobcat MT52 Mini Track Loader with Optional Stand-on Riding Platform and Auger Attachment. Expert witness information needed. Robyn L. Blanchard, rblanchard@ballowlaw.com.

National Products Liability Database Report

Published Monthly

Subscription \$279 Annually

A publication from the National Products Liability Database, TM this Report seeks to raise the standard of product safety in the United States by publishing relevant, timely information about trial and appellate cases, filings and safety data. It is not affiliated with any professional organization of lawyers, manufacturers or insurance companies.

Address subscription orders, reports of recent cases and other correspondence to:

Lewis Laska, Editor

901 Church Street

Nashville, TN 37203

(615) 255-6288

Fax: (615) 255-6289

e-mail: llaska@verdictslaska.com

Reproduction in any form, including office copy machines, electronic data retrieval equipment, or other newsletters or reporters, in whole or in part, without written permission, is strictly forbidden and is prohibited by law.

©2013, Lewis L. Laska

A. Automobiles and Motor Vehicles

2007 Dodge Ram Pick-Up — Multiple Injuries — \$2.5 Million Verdict

Plaintiff, age 33, was working on the family farm when he crossed a bridge in this vehicle. As he did so, he felt the steering shaking. Plaintiff hit the brakes as he traveled near the speed limit. The pickup then crossed the centerline, ran off the roadway and struck a tree. Plaintiff crawled out and called for help. The impact caused a shattered pelvis and an L-2 compression fracture. Hip replacement is likely to be required in the future. According to plaintiff, he is now unable to do farm work. His suit charged that the truck was defective because a track bar bolt in the steering mechanism loosened and disengaged. Plaintiff faulted Chrysler for continuing to use the bolt even though it was not a good fit. The defense denied any defect and claimed that the incident was solely the result of driver error.

The jury deliberated for 2.5 hours before returning a verdict that the truck was defective and awarded \$2,510,580 in damages.

Plaintiff's Experts: Tom Rottinghaus, reconstruction, Murray, KY; Keith Friedman, reconstruction, Austin, TX; William Carden, metallurgy, Pensacola, FL.

Defendant's Experts: Richard Keefer, engineer, Farmington Hills, MI; Steve Bailo, engineering, South Lyon, MI.

Chad Everett v. Chrysler Group, LLC, Fulton Co. (KY) Circuit Court No. 10-1651. Charles E. Moore, Owensboro, KY; Richard L. Major, Jr., Hickman, KY for plaintiff. Denise A. Dickerson, Cleveland, OH; Richard L. Walter, Paducah, KY for defendant.

NPLDR No. A1302017

2009 GMC Sierra — Fire — \$43,662 Verdict

Plaintiff's insured's vehicle caught fire while the insured was driving it on an interstate highway. It had 19,000 miles on it. Plaintiff paid the claim and filed suit, asserting that leaking power steering fluid caused the fire due to defects in the power steering system. The defense denied any defect. It theorized that the truck had been stolen and gutted, followed by the installation of an aftermarket remote start, alarm and stereo system. The fire, according to the defense, was the result of the wiring of the aftermarket electrical system.

The jury deliberated eight hours after a four day trial before returning a verdict in favor of plaintiff for \$43,662.

Plaintiff's Expert: Timothy Herndon, fire cause and origin, Southfield, MI.

Defendant's Expert: Manoj Modi, fire cause and origin, Warren, MI.

State Farm Mutual Automobile Insurance Co. v. General Motors LLC, Wayne Co. (MI) Circuit Court No. 11-006307-NP. Andrew J. VanBronkhorst, Grand Rapids, MI for plaintiff. Shana O. See, Columbus, OH; Laura H. Selzer, Mount Clemens, MI for defendant.

NPLDR No. A1302018

2007 Kawasaki ZX-600J Motorcycle — Burn Injuries — Defense Verdict

Plaintiff, age 16 and unlicensed, lost control of this motorcycle on a freeway and struck a concrete barrier. The motorcycle came to rest on top of him and a fire erupted. Plaintiff sustained third-degree burns over 45% of the body. Despite multiple operations he lost his right ear, fingers on both hands and toes on both feet. His suit charged that the motorcycle was defective in that it lacked a fuel shut-off valve on the fuel tank petcock. The defense denied any defect. It claimed that the fire started when the crankcase shattered during a high speed impact, releasing motor oil which ignited upon making contact with the hot exhaust system. The defense also faulted plaintiff's actions and claimed that the motorcycle had been modified by a previous owner.

The jury returned a defense verdict.

Plaintiff's Experts: Mark Ezra, P.E., engineering; Jerry Wallingford, reconstruction, Houston, TX.

Defendant's Experts: Todd D. Hoover, reconstruction, Magnolia, TX; Rick Oxtun, motorcycles, Ft. Myers Beach, FL; Ed Cahaba, motorcycles, Yorba Linda, CA; Jeff D. Colwell, Ph.D., fire causes/origins, Phoenix, AZ.

Eleazar Arevalo, et al v. Kawasaki Motors Corp. USA, et al, Brazori Co. (TX) District Court No. 59283. Roger H. Reed, Alberto L. Gurrero, McAllen, TX; Jody R. Mask, McAllen, TX for plaintiffs. Jeffrey S. Hawkins, David M. Prichard, David R. Montpas, San Antonio, TX for defendants.

NPLDR No. A1302019

2001 Hyundai Santa Fe — Multiple Injuries — Defense Verdict

Plaintiff, a 32 year-old National Guardsman on leave from active duty, was driving this vehicle on an interstate highway when she encountered rain, snow, hail and slush. Control was lost and the SUV entered the median. The tires furrowed in the decomposed as-

phalt center median for about 70 feet to a point where the vehicle tripped and rolled over four times, then landed on its wheels before rolling a half-revolution back toward the driver's side and coming to rest on the roof. Although restrained by the three-point driver's seat belt, plaintiff sustained a traumatic brain injury, multiple vertebrae fractures, along with pelvic and wrist fractures. She claimed that during the rollover sequence her head exited the driver's side window and struck the upper exterior door frame.

Plaintiff's suit claimed that the roof was of insufficient strength and that the restraint system was inadequate. The defense denied any defect. According to the defense, the restraint system performed as well as could be expected under such a severe incident. Finally, the defense argued that plaintiff actually unlatched her seat belt while upside down and then fell 12 inches on to her head.

At the conclusion of an 11 day trial the jury returned a verdict of no defect.

Plaintiff's Experts: Robert J. Caldwell, reconstruction, Lafayette, CO; Dennis F. Shanahan, M.D., biomechanics, Carlsbad, CA; Stephen R Syson, vehicle design, Santa Barbara, CA.

Defendant's Experts: Gary S. Bahliang, design, Metamora, MI; Geoffrey J. German3e, Ph.D., reconstruction, Provo, UT; Michael J. Klima, P.E., seat belts, Novi, MI; Thomas M. McNish, San Antonio, TX.

Melissa D. Stevens v. Hyundai Motor Co., et al, Washoe Co. (NV) Second Judicial District Court No. CV08-00346. Raymond O. Bodiford, Orlando, FL; C. Tab Turner, Jerry M. White, North Little Rock, AR; Peter M. Durney, Reno, NV for plaintiff. Paul G. Cerethini, Bryan J. Blehm, Jeffrey C. Warren, Phoenix, AZ; Mark A. Chirco, Thomas N. Vandeford, Jr., Fountain Valley, CA; Eugene J. Wait, Reno, NV for defendant.

NPLDR No. A1302020

Honda ATV — Opinion

Judgment as a matter law entered for defense after jury unable to reach a verdict on manufacturing claim after deliberating for five days.

Zane Johnson v. American Honda Motor Co., U.S. District Court D. Montana No. _____. Martin Judnich, Vincent Pavlish, Matthew Stevenson, Missoula, MT for plaintiff. Paul Cereghini, William Auther, Phoenix, AZ; Gerry Fagan, Billings, MT for defendant.

NPLDR No. A1302021

Recall — 2008 - 2012 BMW 1-Series Coupes, Convertibles; 2007 - 2011 3-Series Coupes, Convertibles, Sedans, 3-Series Sport Wagons; 2009 - 2011 Z4. BMW of North America, LLC, is recalling 504,545 model year 2008-2012 1-Series coupes and convertibles manufactured December 2007 through July 2011; and 2007-2011 3-Series coupes and convertibles manufactured March 2007 through July 2011; 2007-2011 3-Series sedans manufactured March 2007 through October 2011; 2007-2011 3-Series sports wagons manufactured March 2007 through June 2011; and 2009-2011 Z4 vehicles manufactured March 2009 through June 2011 because the connector for the positive battery cable connector and the corresponding terminal on the fuse box may degrade over time. Over time, the high current flow and heat from electrical resistance may lead to a breakage of the connection, and a loss of electrical power to the vehicle. NHTSA. February 7, 2013.

NPLDR No. AR021311

Recall — 2009 - 2012 Dodge Ram 1500; 2009 - 2011 Dodge Dakota; 2009 Chrysler Aspen; 2009 Dodge Durango. Chrysler Group LLC is recalling 278,222 model year 2009-2012 Ram 1500 trucks manufactured from February 27, 2008, through June 30, 2009, and from December 1, 2009, through October 20, 2011; model year 2009-2011 Dodge Dakota trucks manufactured from February 27, 2007, through June 30, 2009, and from December 1, 2009, through September 30, 2011; model year 2009 Chrysler Aspen trucks manufactured from January 3, 2008, through December 18, 2008; and model year 2009 Dodge Durango trucks manufactured from January 3, 2008, through December 18, 2008. The rear axle pinion nut may loosen due to an undersized pinion spline that can allow relative motion between the nut and companion flange. If the rear axle pinion nut loosens, the axle can lock up and cause a loss of vehicle control and/or a vehicle crash with little warning. NHTSA. February 6, 2013.

NPLDR No. AR021313

Recall — 2004 - 2007 Freestar, Mercury Monterey. Ford Motor Co. is recalling 196,967 model year 2004-2007 Freestar and Mercury Monterey vehicles manufactured from March 24, 2003, through November 7, 2006, equipped with a third row seat and originally sold in, or currently registered in, Connecticut, Delaware, Illinois, Indiana, Iowa, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, West Virginia, Wisconsin and the District of Columbia. The third row stowable seat can experience

corrosion and structural degradation at the seat anchor mechanism mounted to the rear wheel wells. As a result of the corrosion, the third row seat may not fully latch into its seating position. In the event that the vehicle is crashed into from the rear, an unlatched seat may increase the risk of personal injury. NHTSA. March 7, 2013.

NPLDR No. AR021302

Recall — 2010 - 2012 Legacy, Outback; 2012 - 2013 Impreza. Subaru of America, Inc. is recalling 47,419 model year 2010-2012 Legacy and Outback vehicles equipped with an automatic or CVT transmission and an Audiovox remote engine starter (RES) accessory, certain model year 2012-2013 Impreza vehicles equipped with a CVT transmission and an Audiovox remote engine starter (RES) accessory, and certain model year 2013 XV Crosstrek vehicles equipped with a CVT transmission and an Audiovox remote engine starter (RES) accessory, as well as are certain model year 2013 Legacy and Outback vehicles that may have received replacement RES fobs due to the possibility that if the RES fob is dropped, the fob may malfunction and randomly transmit an engine start request without pressing the button. The engine may inadvertently start and run for up to fifteen minutes. The engine may continue to start and stop until the fob battery is depleted, or until the vehicle runs out of fuel. If the vehicle is parked in an enclosed area, there is a risk of carbon monoxide build-up which may cause headaches, dizziness or, in extreme cases, unconsciousness and/or asphyxiation. NHTSA. February 25, 2013.

NPLDR No. AR021304

Recall — 2007 - 2010 X5 SAV. BMW of North America, LLC, is recalling 30,265 model year 2007-2010 X5 SAV vehicles, manufactured September 12, 2006, through March 18, 2010 and equipped with an 8-cylinder engine because the brake vacuum pump may leak a small amount of lubricating oil into the hose. The contamination could result in a loss of power assist braking. The loss of power assist in braking could increase stopping distance and lead to a vehicle crash. NHTSA. February 7, 2013.

NPLDR No. AR021310

Recall — 2009 Zuma 125 Scooters. Yamaha is recalling 8,700 model year 2009 YW125 (Zuma 125) scooters manufactured between July 2008 and April 2009 due to possible improper clearances in the internal fuel pump components. These improper clearances may cause an inadequate supply of fuel. NHTSA. February 4, 2013.

NPLDR No. AR021314

Recall — 2012 Velostar. Hyundai-Kia America Technical Center Inc. is recalling 6,071 model year 2012 Veloster vehicles manufactured from July 4, 2011, through October 31, 2011 and equipped with panoramic sunroofs due to the possibility that the panoramic sunroof assembly may have been weakened during installation at the factory. If the assembly was weakened at the factory, the panoramic glass panel may break while the vehicle is in motion leading to personal injury or a vehicle crash. NHTSA. February 19, 2013.

NPLDR No. AR021306

Recall — 2013 Focus, Escape and C-Max Vehicles. Ford Motor Co. is recalling 5,675 model year 2013 Focus and C-Max vehicles built from November 16, 2012, through November 21, 2012; and model year 2013 Escape vehicles manufactured from November 14, 2012, through November 21, 2012 because the left rear door child lock was built incorrectly. As a result, the child lock may not engage when the operator uses normal force to activate the child lock. The operator may incorrectly believe the child lock is engaged. However, the door may be opened from the inside, increasing the risk of injury to an unrestrained child. NHTSA. March 7, 2013.

NPLDR No. AR021301

Recall — 2012 - 2013 Porsche Carrera, Carrera 4. Porsche is recalling 2,263 model year 2012-2013 911 Carrera and Carrera 4 vehicles manufactured from March 7, 2012, through November 12, 2012, and equipped with a standard (not sport) exhaust system because the exhaust tail pipe may fracture and separate from the rear muffler. If the exhaust tail pipe separates from the muffler it may become a hazard for other vehicles on the road, increasing the risk of a crash. NHTSA. February 22, 2013.

NPLDR No AR021305

Recall — 2013 Chrysler 200, 2013 Dodge Avenger. Chrysler Group LLC is recalling 1,785 model year 2013 Chrysler 200 and Dodge Avenger vehicles manufactured from October 30, 2012, through November 2, 2012 because these vehicles may have a gas tank that has a broken control valve in the fuel tank assembly. A broken control valve in the fuel tank assembly may lead to an engine stall or fuel leakage. An engine stall while driving may contribute to a vehicle crash. Fuel leakage, in the presence of an ignition source, may result in a fire. NHTSA. February 6, 2013.

NPLDR No. AR021309

Recall — 2007-2008 Lotus Elise and Exige. Lotus Cars USA, Inc., is recalling 451 model year 2007-2008 Elise and Exige vehicles manufactured from December 1, 2006,

through October 31, 2007 due to the possibility that the oil cooler line may become detached from its fitting. A detached oil line could spray oil on a tire, increasing the risk of a crash, or it could spray oil throughout the engine compartment increasing the risk of a fire. NHTSA. February 5, 2013.

NPLDR No. AR021307

Recall — 2013 Rolls-Royce Phantom. Rolls-Royce Motor Cars is recalling 27 model year 2013 Phantom vehicles manufactured from November 2, 2012, through January 18, 2013 because the fuel filler necks may be missing the anti-misfueling devices. The devices prevent misfueling and discharge static electricity. Without the anti-misfueling device, there is an increased risk of fire from static electricity. NHTSA. February 7, 2013.

NPLDR No. AR021308

Recall — 2013 Altima, LEAF, Pathfinder, Sentra, and Infiniti JX35. Nissan North America, Inc., is recalling an undetermined number of model year 2013 Altima, LEAF, Pathfinder, Sentra, and Infiniti JX35 vehicles because sensors within the passenger Occupant Detection System (ODS) may have been manufactured out of specification. This may cause the system to malfunction and permanently suppress the passenger airbag. NHTSA. March 1, 2013.

NPLDR No. AR021303

B. Consumer Products for Personal and Home Use

Powermate Air Compressor — One Eye Blindness — \$546,320.47 Judgment

Plaintiff, a 20 year-old student/National Guardsman, was performing repair work with this equipment, when he was struck in the left eye by a piece of plastic fan blade. Surgical treatment was unavailing and plaintiff was rendered blind in the eye, which was replaced by a cosmetic prosthesis. According to plaintiff, this forced him to leave the National Guard and abandon plans to become a pilot. His suit charged that the compressor was negligently designed and manufactured. As to the former, he claimed that the fan was not secured to the spindle, but was held in place solely by friction. It was fitted too loosely, he continued, to remain secure in such a manner. Powermate was in bankruptcy and did not reply.

The court entered summary judgment for plaintiff and awarded \$546,320.47.

Miciah Guy v. Powermate Holding Corp., et al, U.S. District Court W.D. Oklahoma No. 5:11-cv-00699-F. Lauren L.L. Kelliher, David D. Proctor, II, David Proctor, Oklahoma City, OK for plaintiff.

NPLDR No. B1302016

Recall — Task*It 1-UP folding step stools. Cramer LLC, of Kansas City, Missouri, is recalling some 6,500 of these items [They are plastic and have a 9.5 x 14.5 top step and feature two 11.5 inch legs that fold inward for storage. The top of the folding step stool is covered with black rubber treading imprinted with an asterisk symbol. “1-UP step” is printed on the product packaging. The Task*It name is imprinted on the legs.] because they can crack, break or collapse. CPSC. February 14, 2013.

NPLDR No. BR021316

Recall — Jerdon Style Model CM12B One-cup Coffee Makers. Jerdon Style LLC, of Richardson, Texas, is recalling about 6,000 of these appliances [which are black and have an oval, red indicator light above the on/off switch. The coffee maker brews a single, eight to 12-ounce cup of coffee. The phrases “FIRST CLASS” and “JERDON” are printed in white letters on the front of the product.] because they can overheat. CPSC. February 27, 2013.

NPLDR No. BR021322

Recall — LED Light Bulbs. Lighting Science Group Corporation, of Satellite Beach, Florida, is recalling about 554,000 120-volt LED bulbs, sold as 6- 8- and 9-watt bulbs (equivalent to 40 or 50 watts), that were marketed under the brand names Definity, EcoSmart, Sylvania and Westinghouse because they can overheat during use, posing a fire hazard. The model numbers A19, G25 and R20/PAR20 are found on the packaging and on the light-colored circular neck above the base of the bulb where the date code is also printed. The date code reflects the week and year of manufacture; for example date code L4010 was produced during the 40th week of 2010. The date codes listed below may have the letters “CH ” or “MX ” at the end. For example, date code L4010 can also appear as L4010CH or L4010MX. The date codes are: L4010, L4110, L4210, L4310, L4410, L4510, L4610, L4710, L4810, L4910, L5010, L5110, L5210, L0111, L0211, L0311, L0411, L0511, L0611, L0711, L0811, L0911, L1011, and L1111. CPSC. March 19, 2013.

NPLDR No. BR021327

C. Industrial Products Used in Manufacturing or Fabricating Other Products

GIMECO Galvanizing Equipment — Death — \$200,000 Settlement

While using this equipment, plaintiff’s decedent, age 51, fell from a platform that was eight feet above the floor. He was found unconscious and later died of a skull fracture. Plaintiff claimed that the production of dust in the galvanizing process required workers to climb to a height to remove it. She faulted defendant for failing to include guardrails, attachment points for safety devices (harnesses or other fall protection equipment). In addition, plaintiff claimed that defendant failed to provide adequate warnings. The manufacturer denied liability and sought contribution from the employer. The manufacturer asserted that OSHA regulations did not require railings for the platform in question. The employer denied negligent supervision.

The case settled for \$200,000 (\$150,000 from the manufacturer and the employer’s satisfaction of a \$50,000 workers’ compensation lien).

Plaintiff’s Experts: Suzanne Alton-Glowiak, mechanical engineering, Oak Brook, IL; James B. Hyzner, forensic engineering, Janesville, WI; Daniel J. Ronig, structural engineering, Oak Brook, IL.

Defendant’s Expert: John P. Lauhoff, industrial safety, Detroit, MI.

Rosa E. Arellano, et al v. GIMECO S.r.l., et al, U.S. District Court N.D. Illinois No. 1:10-cv-07455. William J. Burke, Chicago, IL for plaintiff. David W. Gray, John W. Patton, Chicago, IL for GIMECO. James J. Frost, Omaha, NE for employer.

NPLDR No. C1302015

D. Industrial Products Used in Constructing Buildings, Structures and Roads

Garbage Truck — Multiple Injuries — \$6.5 Million Settlement

Plaintiff, a waste disposal concern employee, sustained multiple injuries when his midsection was run over by the truck on which he was working while picking up recyclables. He claimed that the truck body, manufac-

tured by Conshohocken Steel Products, violated ANSI standards in that it had steps on the side in front of the rear wheels that could be used as riding steps, rather than having riding platforms behind the rear wheels. He also faulted defendant for failing to affix a warning label. The defense argued that the steps were only for the purpose of loading the truck and not for riding between stops. Moreover, the defense noted that the employer had a policy which banned workers from riding on the steps between stops. The defense also challenged plaintiff's version of how the incident took place, arguing that there were not injuries to the head or hands, as might have been expected.

The case settled for \$6.5 million. Daimler Trucks North America and distributor settled for confidential sums.

Plaintiff's Experts: Robert Crandall, trucks, West Babylon, NY; Joseph Gill, reconstruction, Philadelphia, PA; Kenneth R. Laughery, Ph.D., labels/warnings, Janesville, WI; Daniel May, P.E., truck design, Farmington Hills, MI; Wayne K. Ross, M.D., biomechanics, Lancaster, PA; Gerald Van Beek, P.E., waste disposal, Birmingham, AL.

Defendant's Experts: Timothy Joganich, biomechanics, Penns Park, PA; Daniel M. McDonough, reconstruction, Penns Park, PA; Robert C. Sugarman, Ph.D., P.E., human factors, Buffalo, NY.

Keenan Chisholm v. Conshohocken Steel Products, Philadelphia Co. (PA) Common Pleas Court No. 100403422. Christopher J. Culleton, Brandon A. Swartz, Newtown, PA for plaintiff. Mary E. Conroy, Blue Bell, PA for defendant.

NPLDR No. D1302012

Little Giant M26 Ladder — Back Injury — Defense Verdict

Plaintiff, age 50, claimed that this ladder "fractured" beneath his feet while he was using it at home. He was transported to a hospital, treated and released. Four years later a bilateral tear at L4-5 was diagnosed. Plaintiff underwent physical therapy, seven epidural injections and two platelet-rich-plasma injections. His suit claimed that the ladder was defective due to negligent manufacturing. The defense denied negligence and claimed that plaintiff was contributorily negligent.

The jury deliberated four hours after a four-day trial before returning a defense verdict.

Plaintiff's Expert: John Gashinski, P.E., metallurgy, Edison, NJ.

Defendant's Expert: Thomas E. Bayer, P.E., mechanical engineering, Greenville, PA.

Sean Glennon v. Wing Enterprises, Inc., d/b/a Little Giant Ladder, U.S. District Court D. New Jersey No. 10-cv-324-MAS-DEA. Peter Cipparulo, III, Hillsborough, NJ for plaintiff. Joseph DeRienzo, Westfield, NJ for defendant.

NPLDR No. D1302013

7' Husky Ladder — Defense Verdict

Plaintiff purchased this product at a Home Depot store in 2007. He was using it two years later when it allegedly collapsed underneath him. Plaintiff landed hard and sustained significant injuries. His suit claimed that the spreader bars were defective in that they were not strong enough to support expected weight loads. The defense denied any defect. It claimed that plaintiff simply lost his balance and fell. According to the defense, any damage to the ladder was occasioned post-fall.

The jury found for the defense on both manufacturing and design defect claims. Although it agreed with plaintiff that defendant had breached an express warranty, the jury found that the breach did not cause injury to plaintiff.

Plaintiff's Expert: James Glancey, ladders, Penn Valley, PA.

Keith Foster v. Tri-Cam, U.S. District Court D. Utah No. 2:11-cv-338. Douglas B. Cannon, Salt Lake City, UT for plaintiff. Paul V. Kaulas, Chicago, IL; Julianne P. Blanch, Salt Lake City, UT for defendant.

NPLDR No. D1302014

E. Food and Products for Human Consumption

Cigarettes — Bladder Cancer — \$8.55 Million Gross Verdict

Plaintiff, a member of the decertified class in the *Engle v. R.J. Reynolds Tobacco Co., et al* litigation, was diagnosed with bladder cancer in 1994. He claimed that the cancer was the result of smoking cigarettes made by R.J. Reynolds and others.

The jury found defendant 55% responsible and plaintiff 45% responsible. Gross damages of \$8.55 million were assessed.

Plaintiff's Experts: Jack E. Henningfield, Ph.D., cigarette design/addiction, Bethesda, MD; Neal Benowitz, cigarette addiction, San Francisco, CA; William A. Farone, cigarette effects/chemistry, Anaheim, CA; David Burns, M.D., cancer causation/effects of smoking, Stanford, CA; Robert Proctor, Ph.D., cigarette history, Stam-

ford, CA; David J. Drobles, Ph.D., nicotine addiction, Tampa, FL.

Ralph Ballard, et al v. R.J. Reynolds Tobacco Co., et al, Miami-Dade Co. (FL) Circuit Court No. 07-30336 CA 23. Alex Alvarez, Coral Gables, FL for plaintiff. Benjamin Reid, Olga M. Viera, Miami, FL; Stephanie E. Parker, John F. Yarber, Atlanta, GA for defendant.

NPLDR No. E1302011

Recall — Sauces and Marinades From The Gift Shop at Buffalo Trace Distillery. The Gift Shop at Buffalo Trace Distillery is recalling all non-expired products listed below due to mislabeling and undeclared allergens. People who have an allergy or severe sensitivity to wheat, soy, anchovy, and/or milk, run the risk of serious or life-threatening allergic reaction if they consume these products.

- Bourbon Flavored Caramel Sauce in 8 oz jars, UPC 795436001058, best by 2/16/14;
- Bourbon Flavored Fudge Sauce in 8 oz jars, UPC 795436001034, best by 1/30/14;
- Marinade for Meat in 12 fl oz bottles, UPC 795436001072, best by 10/30/14;
- Barbeque Sauce in 16 fl oz jars, UPC 795436001065, best by 1/19/15;
- Hot Barbeque Sauce in 16 fl oz jars, UPC 795436000174, best by 11/7/14.

The recalled units were distributed to retail grocery stores, specialty stores, liquor stores, and online in the following states: AL, AZ, CA, CO, GA, IL, IN, KS, KY, LA, MD, MI, MO, NC, NE, NJ, NV, NY, OK, PA, SD, TN, TX, VA, WA, WI, WV, and also Wasa, British Columbia, Canada and West Midlands, UK between January 2012 to January 2013. FDA. March 27, 2013.

NPLDR No. ER021332

Recall — La Preferida Whole Pinto Beans 29 oz. (Water & Salt). La Preferida, Inc. is voluntarily recalling 4,734 cases (56,808 cans) of La Preferida Whole Pinto Beans 29 oz. (Water & Salt). Can Code: PINTO LP, BEST BY 01/03/2015, “Time” 3003 because the manufacturer’s preliminary inspection indicates 420 cans may not have been fully processed, which could result in product contamination by spoilage organisms or by pathogens, which could lead to illness if consumed. FDA. March 26, 2013.

NPLDR No. ER021334

Recall — Probiotic Elderberry Dietary Supplement. New Chapter, Inc. is voluntarily recalling Lot#:

01230049332, 90 count Probiotic Elderberry dietary supplement, because it may contain an undeclared allergen - soy. Expiration date: 01/31/15 (located on the bottom of the box and on the side of the bottle). UPC: 7-27783-00123-8. FDA. March 20, 2013.

NPLDR No. ER021335

Recall — Sesame and Garlic flavored Mixed Soy Bean Paste. Daesang America Inc., of Hackensack, New Jersey is recalling its 500gram (17.64 Ounce) packages of Sesame and Garlic flavored Mixed Soy Bean Paste because they may contain undeclared peanuts. FDA. March 19, 2013.

NPLDR No. ER021336

Recall — ProtiDiet High Protein Chocolate Dream Bar. Pro-Amino International Inc. is recalling ProtiDiet High Protein Chocolate Dream Bar, sold in 210 gram (7.4 oz.) packages, 7 bars per package, bearing UPC 6 21498 42238 1, lot code CR 18 13B, and Best Before date of 2015-08 due to possible *Salmonella* contamination. FDA. March 18, 2013.

NPLDR No. ER021337

Recall — Grippo Plain Potato Chips, Bar-B-Q Potato Chips, Cheddar Cheese with a touch of Jalapeno Potato Chips, Hot Dill Pickle Potato Chips, Sweet Bermuda Onion Potato chips and Salt & Vinegar Potato Chips. Grippo Foods, Inc, Cincinnati, Ohio is recalling all bags and boxes of these products because they have the potential to contain metal fragments. FDA. March 15, 2013.

NPLDR No. ER021339

Recall — Kameda Brand Rice Cracker “Kotsubukko” snack food. Nishimoto Trading Co., Ltd of Santa Fe Springs, California, is recalling its 4.37 ounce packages of this product because they may contain undeclared milk. FDA. March 15, 2013.

NPLDR No. ER021340

Recall — “Night Bullet.” Green Planet, Inc., is recalling one lot of this product, marketed as a dietary supplement to support male sexual performance because it was found to contain trace amounts of an analogue of an FDA-approved drug. FDA. March 11, 2013.

NPLDR No. ER021342

F. Building Materials and Components

Conveyor System — Crush Injuries to Arm, Shoulder — Defense Verdict

Plaintiff, a line worker at an auto parts remanufacturing concern, was working next to this equipment (which was not running) when he noticed that a piece of debris had apparently fallen off. On closer examination, however, he noticed that the debris had actually become jammed in a location which could have inhibited movement of the conveyor. When plaintiff reached underneath to attempt to dislodge the debris, the conveyor allegedly began to run without warning. Plaintiff's left arm became entrapped. He sustained crush injuries to the arm and shoulder which resulted in loss of use of the arm. Plaintiff's complaint charged negligent design and manufacture, as well as breach of warranty. According to plaintiff, the design was defective because it allowed the portions of the system to be obstructed from anyone who might activate the system.

At the conclusion of a four-day trial the jury returned a defense verdict.

Bonifacio Ocasio v. SJF Material Handling Inc., d/b/a SJF Enterprises, Inc., U.S. District Court E.D. Pennsylvania No. 2:10-cv-04105-BMS. Patrick C. Timoney, Philadelphia, PA for plaintiff. Brett A. Katz, Philadelphia, PA for defendant.

NPLDR No. F1302010

Recall — "Style my Room by Justice" Disco Lights. Tween Brands, Inc., of New Albany, Ohio, is recalling involves two styles of Tween Brands disco lamps: the black disco light (style 900528) and the star disco light (style 901651), sold under the Style My Room by Justice name brand [The recalled plastic lamps are about 7 inches tall and consist of a 4-inch diameter ball with multi-colored disco lights atop a round, black base with an on/off switch on the side. The style number appears in the lower left corner of the label located on the back of the product packaging.] because the electrical wiring in the lamp base is accessible and the lamp can overheat, posing an electrical shock hazard to consumers. CPSC. March 5, 2013.

NPLDR No FR021324

G. Aircraft and Watercraft

2007 Sea-Doo GTI — Injuries to Two Teen Girls — \$5 Million Net Verdict

The individual defendant, a watercraft retailer/lessor's manager, took this personal watercraft to the water and offered a ride to plaintiffs, age 16 and 17. They were ejected when defendant turned sharply. They climbed aboard and asked that the maneuver not be repeated. The defendant did so again and plaintiffs were again ejected. Both were struck by high pressure jets of water. The younger girl suffered substantial tears to the internal and external anal sphincter muscles which required two surgical procedures which required use of a colostomy bag for four months. The older girl sustained tears to the perineum, labia, and inside of the vagina. Numerous stitches were required.

In addition to a claim against the individual defendant and his employer, plaintiffs advanced a claim against Bombardier Recreational Products for failing to warn of the danger of orifice injuries. They claimed that while a decal was present, it was under the handlebars where passengers could not see it. The manufacturing defendants faulted the operator and his employer.

The jury found that the watercraft was defective due to inadequate warnings. Fault was allocated one-third each to Bombardier, the operator and his employer. The net verdict against the manufacturer was about \$5 million, including \$3 million in punitive damages.

Plaintiff's Experts: Paul Corder, engineering, Beaumont, TX; Michelle R. Huffman biomedical engineering, Phoenix, AZ; William F. Kitzes, product safety analysis, Boca Raton, FL; Allison Osinski, aquatic safety, Avalon, CA.

Defendant's Expert: Kevin C. Breen, human factors, Ft. Myers, FL.

Colombo v. Kohl, et al, San Diego Co. (CA) Superior Court No. 37200700077350. Thomas L. Tosdal, Angela Jae, Ann M. Smith, San Diego, CA for plaintiff.

NPLDR No. G1302022

H. Sports and Recreational Equipment and Products

Recall — Mundo V4 cargo bikes. Yuba Bicycles, of Sausalito, California, is recalling about 1,000 of these 26-inch bicycles that have steel frames, aluminum fenders on the front and rear wheels, and a wood utility deck mounted on the rear cargo rack because passenger feet can become stuck in the rear wheel. The bikes come in orange, black or blue. The word Mundo is on the top tube of the bicycle frame and Yuba is on the down tube. The serial number range for the recalled bikes is ADA11A008000 to ACA12D018000. CPSC. March 20, 2013.

NPLDR No. HR021326

I. Office Use Products or Products Used in Merchandising or Commercial Service Operations

Recall — Oakmont Stackable Chairs. Regency Seating Inc., of Arkon, Ohio, is recalling about 750 of these four-legged stackable chairs sold under the name Oakmont exclusively through Global Industrial Equipment because the weld connecting the legs to the seat can break. CPSC. March 5, 2013.

NPLDR No. IR031323

J. Drugs and Medical Devices

“Gynecare Prolift” Pelvic Mesh — \$11 Million Verdict

Plaintiff had this product implanted as treatment for pelvic organ prolapse. Thereafter she required 18 different surgeries necessitated by defects in the mesh. Her suit advanced claims of failure to warn, fraudulent misrepresentation, defective design and fraudulent misrepresentation as to the to physician. The defense denied liability, claiming that all pelvic organ prolapse surgery carries risk and that it acted responsibly regarding research, development and marketing of its product.

At the conclusion of a trial that lasted eight weeks, the jury deliberated five days before returning a verdict in

favor of plaintiff on the failure to warn and fraudulent misrepresentation claims. The jury found for the defense on the defective design and fraudulent misrepresentation as to the physician claims. Compensatory damages of \$3.35 million were assessed, including \$1.1 million for pain and suffering, \$1 million for future medical expenses, \$500,000 for future lost wages, \$385,000 for past medical expense, \$180,000 for past lost wages and \$185,000 for a per quod claim.

The jury then deliberated another eight hours over three days before returning a punitive damage award of \$7.76 million.

Plaintiff’s Experts: Anne Weber, M.D., urogynecology; Scott Ciarocca, research and development, (in-house - called as adverse witness); Piet Hino., M.D., urogynecology, (in-house - called as adverse witness).

Linda Gross v. Johnson & Johnson, et al, Atlantic Co. (NJ) Superior Court No. _____. David Mazie, Adam Slater, Roseland, NJ; Benjamin Anderson, Cleveland, OH; Jeffrey Grand, New York, NY for plaintiff. Kelly Crawford, Morristown, NJ for defendant.

NPLDR No. J1302007

Premarin, Prempro — Death Due to Breast Cancer — Defense Verdict

This case was reported last month. In 1993 plaintiff’s decedent was prescribed these drugs as treatment for menopause. Six years later she was diagnosed with breast cancer, which ultimately resulted in her death in 2006 at age 62. Plaintiff claimed that the use of Prempro caused the disease. According to plaintiff, defendant suspected such a danger for years but never undertook to test for it. The defense denied liability, arguing both that the statute of limitation barred the claim and that there was no proof that its drug was the cause of the disease.

The jury returned a defense verdict.

Our report last month included the wrong caption. Correct information follows. We regret the error.

Lynn Moss v. Wyeth, U.S. District Court D. Connecticut No. 3:04-cv-1511. Gregory J. Bubalo, Steven B. Routman, Louisville, KY; Neal Moskow, Fairfield, CT for plaintiff. Pamelay J. Yates, Los Angeles, CA; Andrew Solow, New York, NY; David E. Dukes, Columbia, SC; Kelly A. Evans, Las Vegas, NV for defendant.

NPLDR No. J1302008

Premarin, Provera, Prempro — Breast Cancer — Defense Verdict

Plaintiff was initially treated with Premarin, then with Provera, from the early 1990s until September 1997.

At that point she began taking Prempro, which contains both estrogen and progesterone. She continued until 2002. A year later breast cancer was diagnosed. Plaintiff was treated with surgery followed by chemotherapy. She sued defendants for failing to warn of an alleged link to breast cancer. According to plaintiff, as early as the 1960s, both Wyeth and Pharmacia & Upjohn had reason to believe that the combination of Premarin and Provera could substantially increase the risk of breast cancer but failed to conduct studies as to whether the risk was real. Wyeth denied liability, claiming that the warnings were sufficient and that the risk of breast cancer was listed first, and Pharmacia & Upjohn claimed that progesterones do not cause cancer and are typically used to offset endometrial cancers.

Although the jury found that Wyeth failed to adequately warn of the risks associated with the drugs, it also found that plaintiff had failed to prove that the drugs caused her to develop breast cancer.

Plaintiff's Experts: Richard W. Clapp, Ph.D., epidemiology, Boston, MA; Elizabeth Naftalis, M.D., breast surgery, Dallas, TX; Suzanne Parisian, M.D., FDA new drug approval/review procedures, Phoenix, AZ.

Defendant's Experts: Geza Acs, M.D., pathology, Tampa, FL; Stephanie Akbari, M.D., breast surgery, Arlington, VA; Lewis A. Chodosh, M.D., biology, Philadelphia, PA.

Barbara A. Lewis v. Wyeth, U.S. District Court E.D. Arkansas No. 01383-BRW. Rysske T, Abney, David Dearing, Frank Woodson, Montgomery, AL for plaintiff. Catherine M. Corless, Lyn P. Pruitt, Little Rock, AR; David E. Dukes, Columbia, SC; F. Lane Heard, III, Washington, DC for defendant.

NPLDR No. J1302009

Recall — Sterile Compound Products From Pallimed Solutions. Pallimed Solutions, Inc. of Woburn, Massachusetts, d/b/a Pallimed Pharmacy, is voluntarily recalling all sterile compound products dispensed since January 1, 2013 to the user level. The recall resulted from a recent inspection conducted by the U.S. Food and Drug Administration and the Massachusetts Board of Registration in Pharmacy where visible particulates (filaments) were observed in vials of sterile compounded products: TRIMIX, BIMIX (Lot 02252013@3), ALPROSTADIL, DMSO 50 PERCENT – IRRIGATION (Lot 03122013@19), and BACTERIOSTATIC WATER FOR INJECTION (Lot 01072013@28). The potential public health risks are unknown as the particulate matter has not yet been identified.

The recall applies to the following sterile compound products dispensed since January 1, 2013, including all strengths, all dose forms, and all products within expiry date:

- ACETYLCYSTEINE OPHTHALMIC SOLUTION
- ALPROSTADIL IN NS INJECTION
- ATROPINE INJECTION
- BACTERIOSTATIC WATER FOR INJECTION BIMIX INJECTION
- BUPRENORPHINE HCL, VETERINARY INJECTION
- CIDOFOVIR OPH SOLUTION
- CYCLOSPORINE OPHTHALMIC
- DIAZEPAM INJECTIBLE
- DEXAMETHASONE PF
- DMSO AQUEOUS IRRIGATION 50%
- GENTAMICIN SULFATE IRRIGATION
- HCG CHORIONIC GONADOTROPIN
- HYDROXYPROGESTERONE CAPR. (G.S.)
- METHYLCOBALAMIN - PF
- MIC WITH B6 & B12
- NANDROLONE DECANOATE INJECTIBLE
- QUADMIX INJECTION
- TACROLIMUS OPHTHALMIC
- TESTOSTERONE CYPIONATE/TESTOSTERONE ENANTHATE INJECTION
- TESTOSTERONE CYPIONATE/PROPIONATE INJECTION
- TESTOSTERONE CYPIONATE INJECTION
- TRIMIX INJECTION
- VANCOMYCIN OPHTHALMIC P.F.
- VERAPAMIL INJECTION

These products were distributed directly to patients and/or physicians' offices located in some or all of the following states: California, Connecticut, Florida, Georgia, Illinois, Louisiana, Maine, Maryland, Massachusetts, Michigan, Nevada, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Tennessee, Texas, Vermont, Virginia, and Wisconsin. FDA. March 27, 2013.

NPLDR No. JR021333

Recall — Guardian® II and Guardian II NC hemostasis valves. Vascular Solutions Zerusa Ltd., of Minneapolis, Minnesota, a subsidiary of Vascular Solutions, Inc., is recalling specific lots of Model Numbers 8210, 8211, 8215, 8216, 8241, 8242, 8244, 8272 and 8274 of Guardian® II and Guardian II NC hemostasis valves used in catheterization procedures. The specific lots of the products have been recalled because they pose a slightly increased risk of air leakage that may lead to an

air embolism, which could result in serious injury or death. The recalled products were manufactured from February 2012 to February 2013 and distributed from February 2012 to February 2013. FDA. March 15, 2013.
NPLDR No. JR021338

Recall — Macro Micro Subdural Electrodes. Ad-Tech Medical Instrument Corporation is recalling 15 Macro Micro Subdural Electrodes due to concern that the microelectrodes are not flush with the silastic surface. FDA. February 28, 2013.
NPLDR No. JR021344

Recall — OMONTYS® (peginesatide) Injection. Affymax, Inc. Takeda Pharmaceutical Company Limited are recalling all lots of this product of to the user level as a result of new post-marketing reports regarding serious hypersensitivity reactions, including anaphylaxis, which can be life-threatening or fatal. FDA. February 23, 2013.
NLDR No. JR021345

Recall — “Reumofan Plus” Tablets. Reumofan Plus USA, LLC and Reumofan USA, LLC is recalling Lot# 99515, exp. 09/16, of this product because they contain undeclared active pharmaceutical ingredients: methocarbamol, dexamethasone, and diclofenac. FDA. February 19, 2013.
NPLDR No. JR021346

Recall — Vistide® (cidofovir injection). Gilead Sciences, Inc. is recalling lot B120217A of Vistide® (cidofovir injection) to the user level due to the presence of particulate matter found in some vials of this lot. FDA. February 15, 2013.
NPLDR No. JR021347

K. Agricultural and Gardening Machinery and Products

Recall — Homelite Electric Blower Vacuums. Homelite Consumer Products Inc., of Anderson, South Carolina, is recalling 241,000 Homelite electric blower vacuums with two different model and serial number ranges, including model UT42120 with serial numbers BMP3540001 through BMR2103100, and model UT42120A with serial numbers BMR2120001 through BMR3421250. Model and serial numbers are located on a

label on the left side of the red motor housing. The blower vacuums are red and black. “Homelite BlowerVac 2 Speed Powerful 220 MPH” is printed on the side of the motor housing and on the black plastic blower tube. The items are being recalled because objects that are drawn into the unit during vacuum mode can break through the plastic housing, posing a laceration hazard. CPSC. February 21, 2013.
NPLDR No. KR021317

Recall — Expert Gardener Electric Blower Vacuums. OWT Industries Inc., of Pickens, South Carolina, is recalling 131,500 Homelite electric blower vacuums with two different model and serial number ranges, including model 20254EG with serial numbers BMP3010001 through BMR3311972, and model 20254EGC with serial numbers EUP3120001 through EUP3630730. Model and serial numbers are located on a label on the left side of the motor housing. The blower vacuums are green and black. “Expert Gardener” and “BlowerVac 2 Speed Quiet 150 MPH Powerful 220 MPH” are printed on the side of the green motor housing and on the black plastic blower tube. The items are being recalled because objects that are drawn into the unit during vacuum mode can break through the plastic housing, posing a laceration hazard. CPSC. February 21, 2013.
NPLDR No. KR021318

Recall — Bravo! Raw Food Diet Chicken Blend for Dogs and Cats. Bravo! is recalling 2 lb tubes of Bravo! Raw Food Diet Chicken Blend for Dogs and Cats, product code: 21-102, batch ID code 6 14 12, because it has the potential to be contaminated with *Salmonella*. The recall involves 2 lb. Bravo! Chicken Blend frozen raw diet tubes (chubs) made on June 14, 2012 only; no other products or sizes are involved. FDA. March 14, 2013.
NPLDR No. KR021341

Recall — “Turducken Canine Diet – 8oz. Patties.” Steve’s Real Food of Murray, Utah is recalling 5 lb. bags of this product due to potential contamination of *Salmonella*. FDA. March 8, 2013.
NPLDR No. KR021343

L. Electronic and Electrical Equipment

HP Computer — Fire — Defense Verdict

This case was reported in last month's issue. Plaintiff claimed that this computer caught fire. The resulting fire destroyed his home. His suit alleged manufacturing defect.

The jury returned a defense verdict.

Corrected expert witness information is as follows.

Plaintiff's Experts: Mike Smith, fire causes/origins, Midland, TX; Mark Howell, fire causes/origins.

Defendant's Expert: James L. Montgomery, electrical engineering, Mount Ida, AR

Ralph Carrington v. Hewlett Packard Company, Dallas Co. (TX) 44th District Court No. 11-14196. Frank Webb for plaintiff. Joseph Garnett, Houston, TX for defendant.

NPLDR No. L1302005

Recall — Samsonite Dual-Wattage Travel Converter Kits. Samsonite LLC, of Mansfield, Massachusetts, is recalling about 20,000 of these items used to make standard U.S. and Canadian appliances usable abroad because the converters can overheat if a load in excess of 50 watts is applied to the converter while in the 50-watt setting. The kit includes one black converter to change 220-volt AC electricity to 110-volt AC, two adapter plugs with round prongs, two with flat prongs and one grounded adapter plug with three flat prongs. The converter has a red switch to adjust the wattage of the appliance from 50 to 1600 watts. The words "Dual-Wattage Converter" and "Do Not Use 50W on Hair Dryer" appear on the front of the converter. CPSC. February 12, 2013.

NPLDR No. LR021315

Recall — Ryobi Lithium 18 V 4Ah Battery Pack. One World Technologies, Inc., of Anderson, South Carolina, is recalling about 54,200 of these items [model P108 and part number 130429028] because the pack can overheat and burst while on a charger, posing fire and burn hazards to consumers. CPSC. February 26, 2013.

NPLDR No. LR021319

Recall — tc electronic 250 W Bass Guitar Amplifiers Model BH250. TC Group Americas, of Kitchener, ON, Canada, is recalling about 388 of these amplifiers because a nut inside the chassis can come loose and fall between

the electrical coils, posing an electrical shock hazard to consumers. CPSC. March 21, 2013.

NPLDR No. LR021331

M. Firearms, Weapons, Military Equipment and Products

Recall — Soft Air Swiss Arms break-barrel, single-shot air rifle. Soft Air USA, of Grapevine, Texas, is recalling about 2,400 of these rifles [34 inches long with a black barrel and a wood stock with checkering etched on the grip and forend and a rubber recoil pad on the butt] because they can discharge while the safety is engaged. The rifles have a metal fixed front sight, a fold-down rear sight and a receiver for mounting optics. The rifles come with a 4x32 millimeter scope. "XT32" and "Cal.4.5/.177" are on the left side of the barrel hinge plate. The rifle is cocked by swinging the barrel down on its hinge to "break" the gun open for loading, then swinging the barrel back up into firing position. Model number "288719" is located on the barrel near the rear sight. CPSC. March 12, 2013.

NPLDR No. MR021329

N. Chemicals, Solvents, Cleaners & Compounds

Silica Sand — Death — \$1.649 Million Gross Verdict

This case was initially reported in last month's issue. Plaintiff's decedent husband worked as a brakeman/conductor from 1947 until he retired in 1991. During the bulk of that time he worked a regular route between Mobile, Alabama and Laurel, Mississippi. Silica sand was utilized in two ways: (1) it was sprayed on to the rails to increase traction; and (2) it was used to sandblast railcars. Decedent was allegedly exposed to the resulting dust in both instances. In 2009 decedent began treatment for pulmonary fibrosis. He died October 1, 2010, at age 83 of respiratory failure due to pulmonary fibrosis. According to plaintiff, decedent suffered mixed-dust pneumoconiosis (MDP) secondary to exposure to silica sand and asbestos. Before his death, decedent settled two asbestosis cases. Following his demise, plaintiff sued a number of concerns, including Mississippi Valley Silica Co. and Clark Sand Co., which allegedly supplied silica sand to the rail-

road. Only the named defendants remained for trial. Clark Sand Co. settled for a confidential sum.

Plaintiff's experts opined that decedent had sufficient exposure to respirable silica sand to cause silicosis, which led to MDP and that decedent's presentation was consistent with MDP. Plaintiff's warnings/human factors expert faulted the sand warning label for failing to warn of the risk of silicosis or a fatal, incurable lung disease. The defense argued: (1) decedent had neither silicosis nor MDP; (2) decedent's exposure based on traction sand would have been below background levels and was well within permissible levels of exposure; (3) that plaintiff failed to prove exposure to product which it provided; and (4) that decedent neither read nor relied on any warnings.

The jury deliberated three hours after a week long trial before returning a verdict which allocated fault 1% to decedent, 15% each to Mississippi Valley Silica and Clark Sand and 69% to other entities (including decedent's employer). Gross damages of \$1,649,464.90 were assessed, along with \$50,000 in punitive damages. Over defense objection, the court applied the law in effect at the time suit was filed (2002), so that defendant was jointly and severally liable for 50% of plaintiff's damages.

Our earlier report indicated a Jones Co. (MS) venue. That was incorrect. The case is actually a Hinds Co. (MS) case. We regret the error.

Plaintiff's Experts: Vernon Rose, Ph.D., industrial hygiene, Nashville, TN; Edward W. Karnes, Ph.D., labels/warnings, Denver, CO; Steven Haber, M.D., pulmonary/respiratory diseases, Houston, TX.

Defendant's Experts: Earl Gregory, Ph.D., industrial hygiene, Hamilton, OH; Robert Middleton, Ph.D., pulmonary/respiratory diseases, Jackson, MS; David Derr, M.D., radiology, Madison, MS.

Gwendolyn M. Reeves, etc., et al v. Pangborn Corporation, et al, Hinds Co. (MS) Circuit Court No. 251-10-458-CIV. Patrick J. Malouf, Porter & Malouf, Ridgeland, MS; R. Allen Smith, Ridgeland, MS for plaintiffs. John Cosmich, LaKeysha G. Isaac of Cosmich, Simmons & Brown, Jackson, MS for Mississippi Valley Silica.

NPLDR No. N1302004

P. Railroad, Transit, Pipeline and Other Transportation Products

Plasser American Railroad Tamper — Crush Injury — \$5 Million Settlement

Plaintiff, age 36, was making repairs to a railroad track when this six-ton machine that removes and replaces ties, ran over his legs. The impact cause leg fractures and extensive soft tissue damage which required 16 different surgical procedures to debride wounds, set bones and reconnect tendons and muscles. He subsequently developed deep vein thrombosis and pulmonary emboli, as well as a bone infection. As a result of his medical conditions, plaintiff is totally disabled.

His suit faulted his employer for failing to properly maintain the tamper. He claimed that a repairman hired by the company told the company that the brakes on the tamper were "shot" but was told that replacements would cost too much.

The employer settled for \$5 million.

A separate product liability claim against Plasser American remains pending.

Charles Johnson v. T. Glennon, Inc., Middlesex Co. (NJ) Superior Court No. _____. Robert Gold, Morristown, NJ for plaintiff. Joseph Fuoco, Morristown, NJ; Victor Rotolo, Lebanon, NJ for defendant.

NPLDR No. P1302002

Cottrell Car-Hauler — Defense Verdict.

Plaintiff was at a car dealership when he fell from the top of a Cottrell car hauler. He suffered leg injuries which ended his twenty-nine-career as a driver. He filed a product liability suit against Cottrell, arguing that the car hauler lacked sufficient safety features, including more traction, handholds and handrails. The defense denied liability. According to the defense, plaintiff was simply in a hurry inasmuch as he was at the end of his workday and near the end of his allowable hours of service. Moreover, the defense claimed that plaintiff was wearing tennis shoes in defiance of safety warnings.

The jury returned a defense verdict.

Plaintiff's Expert: Gerald Micklow, engineering, Greenville, NC.

Defendant's Expert: George Widas, engineering, Medford, NJ.

Luther Stanley v. Cottrell, Inc., U.S. District Court E.D. Missouri No. 4:10-cv-01505. Charles Armbruster, Michael Blotevogel of Armbruster, Dripps, Winterscheidt

& Blotevogel, St. Louis, MO for plaintiff. Daniel Carpenter, Amy Lorenz-Moser of Armstrong Teasdale, St. Louis, MO for defendant.

NPLDR No. P1302003

Q. Toys and Children's Products

Recall — Hello Kitty City Motor Scooters. Dynacraft BSC Inc., of American Canyon, California, is recalling about 5,200 of these battery-operated City Scooters that are pink and black with Hello Kitty graphics on the front panel, footboard and rear fenders. The scooters were manufactured between September 10, 2012 and December 3, 2012. Model number "8801-03" and the date of manufacture, formatted as "YYYY/MM/DD," are printed on a data label on the underside of the scooter's center platform. Serial numbers for the recalled scooters have the letters "QYCEI" followed by a six-digit number in the following range: 000001 through 014456. The scooters are being recalled because they can accelerate suddenly while in use, causing the rider to lose control and fall. CPSC. February 26, 2013.

NPLDR No. QR021320

Recall — Monster City Motor Scooters. Dynacraft BSC Inc., of American Canyon, California, is recalling about 5,500 of these electric, battery-operated City Scooters that are purple and black with Monster High graphics on the front panels, seat and rear fenders. The scooters were manufactured between October 5, 2012 and November 7, 2012. Model number "8801-14" and the date of manufacture, formatted as "YYYY/MM/DD," are printed on a data label on the underside of the scooter's center platform. Serial numbers for the recalled scooters have the letters "QYCEI" followed by a six-digit number in the following range: 003125 through 014456. The scooters are being recalled because they can accelerate suddenly while in use, causing the rider to lose control and fall. CPSC. February 26, 2013.

NPLDR No. QR021321

Recall — Imaginarium Activity Walkers. Toys R Us Inc., of Wayne, New Jersey, is recalling about 9,000 of these items which have a round wooden push handle on the top of a curved triangle-shaped wooden walker base with four wheels, because the small bolt and spacer that attaches the front wheel to the walker can detach, posing a choke hazard. There is a multi-colored metal xylophone

with 2 triangle mallets, 1 multi-colored abacus and 1 scratch noise maker on the front of the walker. The walkers have multi-colored wooden, disc-shaped wheels. The walkers measure about 19 inches tall and about 13 inches wide. The recalled walkers have model number "Toys 'R' Us 5F5E972" printed on the bottom of the activity walkers. Barcode number "3700217300319" is printed on the bottom of the activity walker box. CPSC. March 13, 2013.

NPLDR No. QR021325

Recall — Battery-powered BrightLight™ Blankets. IdeaVillage Products Corp. of Wayne, New Jersey, is recalling some 5,200 of these 40-inch by 60-inch white, polyester blankets with LED lights that change color and have a battery compartment in a zippered pouch on the edge of the blanket, because the batteries can overheat. CPSC. March 14, 2013.

NPLDR No. QR021329

R. Measuring, Analyzing and Controlling Instruments and Devices

7.4 C 1650mAh Lithium Polymer Battery Pack Control Car Battery Charger — House Fire — Summary Judgment for Defense

Plaintiff's insured purchased a Losi Mini-T remote control car in May 2011. On the 20th of the month the house caught fire and was a total loss. Plaintiff paid a claim in excess of \$206,000. Plaintiff claimed that the insured took delivery of the battery charger at about 5:30 p.m. (it was ordered separately), plugged it in and then left the home before receiving a call at 8:45 p.m. that the house was on fire. Plaintiff claimed that the charger exploded and caused the fire. According to plaintiff, the battery pack and charger lacked sufficient thermal protection on the wires and conductors and lacked an overheating protection safety device.

The defense moved to strike plaintiff's expert opinions and also sought summary judgment. According to the defense, the first combustible material to ignite was an upholstered chair next to the glass end table on which the charger was placed. The defense asserted that plaintiff could not explain how the fire source traveled from the table to the chair.

The court granted the defense motion for summary judgment.

Plaintiff's Expert: David A. Reiter, P.E., electrical engineering, Conroe, TX.

Texas Farm Bureau Mutual Ins. Co. v. Horizon Hobby, Inc., U.S. District Court W.D. Texas No. 5:12-cv-00325-HLH. Brian C. Steward, San Antonio, TX for plaintiff. Douglas D. Fletcher, Keith A. Robb, Dallas, TX for defendant.

NPLDR No. R1302006

Recall — Axiom, Axiom i3, Balance, Black Diamond, Dimension, Libra, Lotus, Pearl, Pearl i3, Pro LT, Pro QD, Pro QDi3 and Zuma Buoyancy Compensators.

Aqua Lung America, of Vista, California, is recalling 110,000 of these buoyancy compensators with SureLock II rubber handles attached to weight pockets because the rubber handles can detach as divers are trying to remove the weight pockets to rise to the surface in an emergency. This poses a drowning hazard. CPSC. March 21, 2013.

NPLDR No. RR021330

S. Asbestos

Brake Pad Exposure — Death — \$4.4 Million Verdict

Plaintiff's decedent worked as a sheriff's department auto mechanic between 1972 and 1996, during which time he performed more than 1,000 brake jobs using brake pads and shoes from Ford, GM, Bendix (Honeywell) and other manufacturers which contained up to 60 percent chrysotile asbestos. He was diagnosed with mesothelioma in April 2011 at age 81 and succumbed to the disease four months later. Prior to death decedent sued a number of concerns, including Ford and Southern Talc. The latter defendant had supplied talc to a Johns-Manville asphalt and roofing plant which gave scrap materials to nearby residents for use in their driveways. Decedent's driveway was one of those which contained the product, which was present when he moved into his home in 1972. Settlements were reached or dismissals were agreed to as to all defendants other than Ford and Southern Talc.

At trial, plaintiff claimed that although Ford knew of the dangers of asbestos in brake pads since as early as 1968, it did not stop selling brakes pads and shoes until 2001. Plaintiff claimed that decedent was exposed to respirable asbestos whenever he used compressed air to blow out a brake drum and when he ground and sanded new pads or shoes in order to properly fit wheels. Regarding exposure from the driveway product, plaintiff claimed that exposure took place any time there was a dis-

turbance of the tremolite-asbestos-contaminated talc. Ford denied that users of brake pads and shoes are at an increased risk of developing asbestosis. Southern Talc argued that the tremolite found in its talc was a non-asbestiform mineral that is non-fibrous, non-inhalable and could not have caused decedent's disease.

The jury deliberated five hours after a two week trial before returning a verdict which allocated fault 65% to Ford and 35% to Southern Talc. Damages of \$4,401,393.15 were assessed.

Plaintiff's Experts: Joseph H. Guth, Ph.D., industrial hygiene, Delray Beach, FL; Murray Finkelstein, M.D., epidemiology; Samuel P. Hammar, M.D., pathology, Bremerton, WA.

Defendant's Experts: Steve Mlynarek, Ph.D., industrial hygiene, Tampa, FL; Bill Dyson, M.D., industrial hygiene, Greensboro, NO; Michael A. Graham, M.D., pathology, St. Louis, MO; Bryan Hardin, Ph.D., public health, Hilton Head, SC; Mark A. Roberts, M.D., Ph.D., epidemiology, Chicago, IL.

William A. Oddo, Jr., v. Asbestos Corp., Ltd., et al, Orleans Parish (LA) District Court No. 2011-05883. Philip C. Hoffman, David Canella, New Orleans, LA for plaintiff. Janika D. Polk, New Orleans, LA; Warren N. Weaver, Baltimore, MD for Ford. Andrew D. Weinstock, Ryan M. Malone, Metairie, LA for Southern Talc. Eric Shuman, New Orleans, LA for Bendix (Honeywell). Peter R. Tafaro, New Orleans, LA for Westinghouse Electric Co. Elizabeth Rambin, Mandeville, LA for Asbestos Corp. Ltd. McGready L. Richeson, New Orleans, LA for Union Carbide.

NPLDR No. S1302001