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Law Reporter

Volume 47, Number 10 December 2004

Consumer Protection: Breach of warranty, fraud where home incurred water damage, page 334

Employment Law: Title VII violations where policeman was repeatedly suspended, page 335

Insurance: Class certification is proper in physicians' RICO suit against various HMOs, page 339

Schools: Random, suspicionless searches of students and their belongings are unconstitutional, page 348

Workplace Safety: In-home nurse may get benefits for injuries from accident while en route to assignment, page 350

Spotlight: Solo practitioner successfully battles defense team's tactics, page 353



BALANCING THE SCALES
OF JUSTICE

~ ENDOWED BY SIDNEY GILREATH ~

facturer doctrine where it placed its name on the injury-causing product and failed to advise third parties of the true manufacturer's identity. The court also held the seller's act of informing its testing laboratory of the manufacturer's identity did not defeat application of the doctrine because there was no way the injured party could have learned this information at the time of the sale. Plaintiff was represented by *Stephen H. Cook and Derek Regensburger, both of Boulder, Colo.; and Richard Roy Rardin, Denver, Colo. Documents in this case are available through the Court Documents section in the back of this issue, courtesy of Mr. Cook.

Long v. United States Brass Corp., 333 F. Supp. 2d 999 (D. Colo. 2004).

Top-heavy design of medical supply cart

Settlement for a woman who suffered neck and back injuries when she attempted to catch a medical supply cart that was overturning. She and her husband sued the manufacturer of the cart, alleging it was defectively designed in that it was unnecessarily top heavy. Plaintiffs were represented by *J. Olin McDougall II, Beaufort, S.C.

Barber v. Waterloo Indus., Inc., S.C., Jasper County Cir. Ct., No. 02-CP-27-094, Aug. 8, 2004.

Repose statute governing improvements to real property did not apply to swimming pool kit manufacturer

The Supreme Court of New Jersey held the state's 10-year statute of repose governing improvements to real property, N.J. Stat. Ann. § 2A:14-1.1a, did not apply to a products liability claim against the manufacturer of a swimming pool kit. The supplier of the kit was entitled to some protection, however, to the extent that the claim was based on the act of installing or constructing the pool. Plaintiff was represented by Bernard P. Hvozdovic Jr., North Brunswick, N.J. Documents in this case are available through the Court Documents section in the back of this issue, courtesy of Mr. Hvozdovic.

Dziewiecki v. Bakula, 853 A.2d 234 (N.J. 2004).

PROFESSIONAL NEGLIGENCE

ATLA's Professional Negligence Law Reporter includes a broad range of professional liability cases. Here are examples of the kinds of cases appearing in each issue of PNLR.

ACCOUNTING

Conversion, fraud, and breach of fiduciary duty

Verdict, including punitive damages, for a couple whose accountant embezzled the money the couple paid for payroll tax deposits to run their small construction corporation. The couple and their corporation sued the accountant, alleging conversion, fraud, and breach of fiduciary duty. Clifford Ribner, Tulsa, Okla., represented plaintiffs.

Langston v. Davenport, Okla., Tulsa County Dist. Ct., No. CJ-2002-3036, Aug. 19, 2004.

DENTISTRY

Failure to timely diagnose squamous cell carcinoma

Settlement for the estate of a man who died from squamous cell carcinoma several years after he developed sores on the inside of one of his cheeks and jaw pain, symptoms that a dentist diagnosed as periodontal disease. His estate sued the dentist, alleging failure to timely diagnose squamous cell carcinoma. *Robert Gittleman, Southfield, Mich., represented plaintiff.

Johnston v. McClimbey, Mich., Oakland County Cir. Ct., No. 03-052998-NH, July 2004.

FUNERAL HOME

Desecration of remains

Settlement for more than 1,600 next of kin whose family members' remains were sent to a crematory but never cre-

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