

800-pound store display collapses on 8-year-old girl

\$1.2 million settlement

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While her parents were making a purchase in the defendant store, a display containing more than 800 pounds of ceramic tile collapsed on an 8-year-old girl.

The father and a store employee managed to lift the tile up to the extent that the mother was able to pull the girl out. She suffered a fractured maxilla, the loss of five front teeth, a gash over her lip, a deep laceration from the left side of her mouth across her cheek and an almost complete amputation of her lower earlobe.

An examination of the tile display frame revealed that wells on two of the four support posts were missing. A structural engineer employed by the plaintiff opined that this created an unstable display.

The plaintiff proceeded against the display-stand manufacturer for negligent design and manufacture; against the installer for traditional negligence; and against the store owner for allowing a dangerous condition to exist on the premises and failure to inspect and warn.

A surgeon inserted four of the front teeth back into the girl's mouth, placing an arch bar over the gums to hold the teeth in place. More than 100 stitches were required to repair the multiple lacerations.

The girl remained in considerable pain for several months after the accident, due in part to complications in the endodontic process. After the last of four root canals were performed, there was ongoing concern as to whether the inserted teeth would remain intact in her maxilla. The hope was that they would remain intact for as long as possible and that her jaw would continue to grow until she was at least 18.

The case was mediated, at which time the treating orthodontist was present to explain the complications that arise when an 8-year-old loses her front teeth. Specifically, the complications are due to resorption, or bone loss due to the missing teeth, in the upper jaw. In order to combat the resorption, the doctor explained that a number of measures must be taken to correct her bite.

It was further explained that after the girl turns 18, she will be required to undergo significant surgeries. The plaintiff furnished the defendants with two expert reports claiming that she will be fortunate to keep implants intact over a 15-year period.

The estimated dental costs were estimated to approach \$300,000, in addition to the \$50,000 in medical and dental care already incurred at the time of mediation.

The manufacturer, although prepared to argue lack of causation between defect and product failure, did not seriously contest liability and focused on disputing the future dental care necessitated, contending that there were favorable results subsequent to plastic surgery.

The defendant installer argued that it had followed the directions for installation supplied by the manufacturer. The store owner argued that the display had only been in the store a short period of time, and both parties claimed that they could not have been expected to have had knowledge of the defect.

The final settlement breakdown was: \$1 million paid by the manufacturer, \$150,000 by the installer and \$50,000 by the store owner.

Type of action: Products liability

Injuries alleged: Facial scarring, dental injury

Name of case: Withheld

Court/case no.: Withheld

Tried before judge or jury: N/A (settled)

Amount of settlement: \$1.2 million

Date: April 30, 2009

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Detailed Information