

Defective Camping Heater Causes Two Carbon Monoxide Poisoning Deaths

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On November 29, 1999, Pedro Covas, a 41-year-old electrician for the City of West Palm Beach, and his 16-year-old stepson, Rolando Jose Reyna, were camping at a private hunting ground in North Florida. They had been hunting for several days. A neighboring hunter, noting that there had not been any activity at the Covas' campsite for 24 hours, went by the campsite to investigate. He found Pedro and Rolando dead in their tent. The Taylor County Sheriff's Office was called to investigate the deaths. The Medical Examiner determined that the cause of death was from carbon monoxide (CO) poisoning. The source of the CO poisoning was Mr. Covas' Coleman Heater, Focus 5 model, manufactured by The Coleman Company, Inc. Mr. Covas and Rolando are survived by Mr. Covas' wife, Flor (Rolando's mother), and Mr. Covas' two minor children, Alexander and Pedro, from a previous marriage.

Coleman has manufactured camping heaters for many years, including the Focus 5 model which was brought out in the early 1980's. This particular heater operated with a small, 16 oz. propane bottle as its source of fuel. The heater was rather simplistic in design. The bottle of fuel connected to a small metal pipe, or fuel line, which, in turn, led to a regulator where the propane mixed with air and heated a burner attached to a shield reflecting the heat. Focus 5 heaters discharged 5,000 BTUs of heat. Coleman later manufactured several larger and one smaller Focus heaters. According to exhibits presented at trial, the Focus 5 heater was designed to be used in a tent.

Starting in the early 1990's, there were numerous camper deaths reported due to use of Focus heaters. In 1991, a family of six from Massachusetts died from CO poisoning while using a Focus 5 in their tent.

An investigation into these deaths revealed that the CO poisoning most likely resulted from the fuel orifice becoming contaminated. In a similar case in Arkansas, a camper died from CO while using a Focus 5. In that case, the plaintiff's engineer determined that CO poisoning resulted from a contaminated fuel line. There have been at least a dozen incidents of CO deaths resulting from use of Focus 5 and other Focus heaters in confined spaces. Also in 1991, based on complaints of death and serious injury involving the Focus 5 heaters, the Consumer Products Safety Commission (CPSC) began an investigation. In correspondence between CPSC and Coleman, it was agreed that Coleman would modify the warnings on the device to include the dangers associated with the use of the heater in confined spaces and to add suggestions for proper ventilation when using the heater in a tent. At the time of the CPSC investigation, there were already several hundred thousand heaters in the hands of consumers. Coleman notified consumers by way of advertisements in selected magazines, and attached a hang tag to the propane bottles manufactured and sold by Coleman. The additional warnings and advertisements lasted a year. Coleman also modified the design of the fuel orifice on new Focus 5 heaters to include a filter to prevent contamination of the fuel line.

The warnings on the Focus 5 heater did not include statements that the device would produce carbon monoxide, that the heater should be shut down if it did not function properly, or that use of the heater required sufficient ventilation to prevent death from CO poisoning.

\$10.1 Million Verdict:

PRODUCT
DEFECT
CAUSES DEATH

A double wrongful death action was brought against Coleman by Mr. Covas' widow, Flor Covas, on behalf of the estates of her husband, and her son, Rolando. It included a product liability claim against Coleman alleging that Coleman manufactured a camping heater that was defective in design and in warnings. The Focus 5 lacked screens and a heater cover to prevent the inlet/outlet orifices from becoming clogged with debris. The heater also lacked an oxygen depletion sensor which would have shut off the heater once the air inside the tent contained too little oxygen to be safe. The warnings on the Focus 5 heater did not include statements that the device would produce carbon monoxide, that the heater should be shut down if it did not function properly, or that use of the heater required sufficient ventilation to prevent death from CO poisoning. Attorneys Chris Speed and Jack Hill of Searcy Denney Scarola Barnhart & Shipley represented Mr. Covas' two minor children, Alexander, three years old and Pedro, eight years old, at the time their father died.

The defendant company did not dispute the fact that the cause of death was from CO poisoning, nor did it dispute the fact that the source of the CO was the Focus 5 heater. In fact, Coleman's defense appeared to rest, in large part, on blaming Mr. Covas and his stepson for using the heater in their closed tent, and on legal arguments regarding their experts' evaluations of the heater.

Following the June 2005 trial in U. S. District Court, Miami, Florida, before Judge Joan Leonard, a jury ruled for the plaintiffs. The two minor sons of Mr. Covas, Alexander and Pedro, were awarded \$3.7 million. Mrs. Covas was awarded \$2,426,656 for the loss of her husband, Pedro, and \$4,000,000 for the loss of her son, Rolando. The total verdict for the Covas family was \$10,126,656. This amount was reduced by a finding of 20% comparative negligence on Pedro and 5% on Rolando. ■

Speaking Opportunities:



Chris Searcy

spoke at the following seminars:

The Palm Beach County Bar Association Trial Strategies of the Masters Seminar held at the Marriott at City Place in June 2005. Mr. Searcy spoke on "Litigation Strategies in Maximizing the Damages in the Personal Injury/Wrongful Death Case."

The Academy of Florida Trial Lawyers Auto Negligence Seminar held at the Renaissance Hotel in Ft. Lauderdale in July 2005. Mr. Searcy spoke on "The Anatomy of an Opening - Winning in the Beginning."

The Academy of Florida Trial Lawyers Al J. Cone Trial Advocacy Institute Seminar presented by the AFL's Young Lawyers Section at the Peabody Orlando. Mr. Searcy spoke on "Opening Statement," and also participated in an "Opening Statement Workshop." ■



Jack Scarola

was the featured speaker at the Palm Beach County Trial Lawyers Association Dinner Meeting held in June 2005 at the Colony Hotel in Palm Beach. Mr. Scarola's topic was "A Billion and a Half War Stories." ■



Darryl Lewis

spoke at The Academy of Florida Trial Lawyers 2005 Civil Litigation for Paralegals and Legal Assistants Seminar held in June 2005 at Disney's Grand Floridian Resort & Spa. Mr. Lewis spoke on "Trying A Personal Injury Case from A-Z." ■



Laurie Briggs

presented an all-day seminar in April (West Palm Beach) and September (Miami) 2005 on "Litigation Skills for the Legal Staff in Florida" for the Lorman Education Services. She also spoke in July 2005 at the annual ACLU of Florida Conference in Key West. Her topic was "Effective Intake Screening for Civil Rights Practitioners and Staff." ■