

2009 WL 1110263 (Ind.Super.)

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Superior Court of Indiana, Tippecanoe County.

ESTATE OF SIMONTON v. L&L ENTERPRISES, INC.

79D01-0602-CT-20

DATE OF VERDICT/SETTLEMENT: February 17, 2009

TOPIC: PRODUCTS LIABILITY - A HUNTER WAS STRANGLERED TO DEATH WHEN THE TREESTAND AND SAFETY HARNESS HE WAS USING FAILED AND CAUSED HIM TO FALL; AFTER THE NOW DEFUNCT MANUFACTURER FAILED TO ANSWER THE COMPLAINT AND THE HUNTER'S ESTATE WAS AWARDED A DEFAULT JUDGMENT ON LIABILITY, THE CASE WAS TRIED SOLELY ON DAMAGES AGAINST AN EMPTY CHAIR

SUMMARY:

Verdict: \$157,000,000 for plaintiff

ATTORNEYS:

Plaintiff: [Michael W. Phelps](#), Nunn Law Office, Bloomington

Defendant: Pro se (did not appear)

JUDGE: J. Williams

RANGE AMOUNT: \$5,000,000-999,999,999

STATE: Indiana

COUNTY: Tippecanoe

FACTS:

For some years, a company called L&L Enterprises, headquartered in Hattiesburg, MS, manufactured a line of hunting accessories. The company's product line included the "Ol' Man Climbing Treestand" and the "Ol' Man Safety Shoulder Harness."

One of the company's customers was Timothy Simonton of Tippecanoe County. On 10-15-05, Simonton, age 42, was out doing some hunting in Clay County. During the course of his hunting expedition, he had occasion to use his Ol' Man treestand and safety harness.

Somehow, the treestand and harness failed. As Simonton fell, he became entangled and was strangled to death. Tragically, it was his own wife, Carol Simonton, and his step son who found him hanging from the tree.

Simonton's estate filed suit against L&L Enterprises and criticized the design of their treestand. The record is

light on the details of plaintiff's claim. However, it is known from independent sources that the Consumer Products Safety Commission issued a recall of the Ol' Man treestand in 2004, the year before Simonton's death. The recall was based on several reports of injuries due to failures of the treestand.

As it happened, L&L Enterprises went out of business in 2004, the same year as the recall of its products. For that reason, the company entered no appearance, had no legal representation, and did not participate in the litigation.

The defunct L&L Enterprises did not respond to the estate's complaint, and the court granted the estate a default judgment on the issue of liability. The case was tried in Lafayette solely on the issue of damages.

During his closing argument, plaintiff's counsel asked the jury for a verdict of \$100,000,000. Instead, the jury upped the ante and returned a verdict of \$157,000,000 against the empty chair defendant. This is believed to be the largest verdict in Indiana history.

In any event, the court entered a judgment for the full amount of the verdict. Plaintiff has indicated the intention of taking steps in both Mississippi and Florida to try to collect on the judgment.

The jury in this case asked a number of questions. Among them were the following: (1) "What are the annual sales of L&L Enterprises (2008-year)?" (2) "Who manufactures the tree stand and the harness? (Are they both manufactured by L&L Enterprises?)" (3) "Could we have the documents from the closing arguments?" (4) "How many children does Carol have (dependents)?" and (5) "When did Carol & Tim get married?" The answers to these questions are not revealed in the record.

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