

March 20, 2008

Pinal jury finds against stove maker

By Nick Martin
Tribune

A Pinal County jury on Thursday handed down a huge civil award to a family whose two boys were badly burned in a fire apparently caused by a faulty stove.

The manufacturer, Electrolux Home Products, was ordered to pay the Kavu family of Stanfield \$43.1 million.

"They're just elated," said the family's attorney, Matt Cunningham. "They're very happy with the jury's decision."

The two boys, ages 3 and 12 at the time of the accident, were burned in April 2004 when a fire flared up inside their home in the small town just west of Casa Grande.

The older brother, Jeffrey, was burned over 50 percent of his body. The younger, Benson, suffered burns to his head and face, amounting to about 15 percent of his body.

The family believed that their gas stove was to blame and filed suit in 2006.

The award is one of the largest an Arizona jury has returned.

"It's staggering," said attorney Robert Greer, who represented Electrolux, a Swedish company whose American headquarters are in a suburb of Augusta, Ga.

The company previously offered to settle with the family, he said, but the Kavus turned it down. Greer declined to say how much the company offered.

The company plans to appeal, and Greer said Electrolux believes the amount of the award was too high and he hopes the judge will "fix it."

"We're still processing and working through it," Greer said. "This was not a product failure."

Electrolux's most well-known U.S. products are from its Frigidaire line of home appliances, which includes stoves, refrigerators and dishwashers.

News reports show a Pennsylvania woman filed a similar suit last year against Electrolux after her stove exploded. That case is still pending.

Pinal County Superior Court Jury Trials

THE TRIAL REPORTER of Southern Arizona

March, 2008

3/20/08 - Visiting Judge CHRISTOPHER T. WHITTEN - CV 2006-00528 - KAVU (Matthew B. Cunningham and James P. Cunningham of Cunningham Law Firm) v ELECTROLUX HOME PRODUCTS, INC. (Robert L. Greer of Baird, Williams & Greer, L.L.P.; and Linda B. Kersker of Brouse McDowell, P.A., of Akron, Ohio) - PERSONAL INJURY - PRODUCT LIABILITY - DEFECTIVE DESIGN - GAS OVEN/RANGE - FIRE. Plaintfs alleged Dfnt designed, manufactured, and sold a defective and unreasonably dangerous Frigidaire gas oven/range, in 1996. The oven/range was sold and distributed to Plaintfs employer and was installed in a mobile home on the employer's property in April 1996. Plaintfs moved into the mobile home, in 2002. Plaintfs alleged that as a result of the oven/range's defective design, a corrosion hole developed in its aluminum gas supply tube. This allowed natural gas to leak into Plaintfs' kitchen, resulting in a flash fire, which caused severe burn injuries to Plntf sons, Jeofrey Mutuvi-Kavu, age 12, and Benson Mutuvi-Kavu, age 3. Plaintfs called Kimble J. Clark, Ph.D., a forensic engineer; Lester E. Hendrickson, Ph.D., a metallurgical engineer; W. Alan Bullerdiek, Ph.D., a product design/standards expert; and Patrick A. Andler, C.F.I., a fire cause and origin expert. Dfnt denied liability, advancing the defense that the "standing pilot" on the gas oven/range was state-of-the-art, at the time it was manufactured, in 1996. Dfnt argued that the hole discovered in the oven's aluminum pilot supply tube occurred post-fire, and there was insufficient natural gas leaking from the gas oven/range to create the flash fire. Dfnt asserted that the flash fire was fueled by isopropyl alcohol, as opposed to natural gas. Dfnt called Tim Riddle, a fire cause and origin expert; John M. "Jay" Freeman, P.E., a propane gas expert and mechanical engineer; Arun Kumar, Ph.D., a metallurgical engineer; and Isaac P. Sargunam, a design expert. As a

direct result of the fire, Plntf son Jeofrey, age 12, sustained severe burns over fifty percent of his body, and an inhalation injury to his trachea, which has reduced his breathing capacity by fifty percent. Plntf son Jeofrey required multiple skin-graft procedures, and will require additional surgical procedures over the course of his lifetime. The present day value of Jeofrey's past and future medical/care expenses total \$3,691,819.06. Plntf son Benson, age 3, sustained severe burns over fifteen percent of his body, which included his face and head. Plntf son Benson required a tissue expansion procedure to excise scarring over his head, and will require ongoing surgical procedures and care over the course of his lifetime. The present day value of Benson's past and future medical/care expenses total \$3,765,433.55. Plaintfs alleged both children have a normal life expectancy and will suffer ongoing pain, disfigurement, and discomfort for the remainder of their lives. As a result of the burn injuries and scarring, both children have suffered a permanent loss of enjoyment in the participation of life's activities. Plaintfs called Daniel M. Caruso, M.D., a burn care and trauma surgeon; Ruth Rimmer, Ph.D., a life care planner; and Glenn A. Wilt, Jr., Ph.D., C.F.A., an economist and financial analyst. No pretrial negotiations. Prior to closing arguments, Dfnt offered \$1,750,000, which was rejected. Nine day trial. Jury deliberated four hours, over two day period. AWARDED PLNTF SON JEOFREY MUTUVI-KAVU \$21 MILLION TOTAL DAMAGES; AWARDED PLNTF SON BENSON MUTUVI-KAVU \$16 MILLION TOTAL DAMAGES; AWARDED PLNTF FATHER BENJAMIN KAVU, \$3,056,000 FOR LOSS OF CONSORTIUM; AND AWARDED PLNTF MOTHER DORA MUTUVI-KAVU \$3,056,000 FOR LOSS OF CONSORTIUM. UNANIMOUSLY.
