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COUPLE AWARDED \$924,615 FROM LANDLORD FOR SCALDING INJURY

Case: Morris and Caroline Zisk v. Gerard and Sara Silverman

Case No.: 02-012211 (13), Broward Circuit Court

Description: Negligence

Judge: Leroy Moe

Trial date: Dec. 8, 2003

Filing date: June 20, 2002

Plaintiffs' attorneys: Partners Mark Glassman, Michael Freedland and Gary Farmer Jr. of Freedland Glassman Farmer & Sheller, Weston

Defense attorney: Samuel Hill of Hill & Lemongello, Fort Lauderdale

Details: The Zisks were snowbirds renting an apartment at Wynmoor Village retirement community in Coconut Creek. In January 2002, Caroline Zisk, awoke from a nap to find her husband lying on the kitchen floor and screaming, with severe scalding burns on his hand; he had been washing dishes. He was

treated at Jackson Memorial Hospital's burn center in Miami for third-degree burns. Three of his fingers had to be partially amputated. He spent five months in rehabilitation and ran up \$176,000 in medical bills. The Zisks' attorneys sued their landlords, the Silvermans, alleging that the hot water heater malfunctioned and the tap water came out hotter than 200 degrees Fahrenheit.

Plaintiffs' case: The plaintiffs' lawyers argued that under Florida case law, a landlord must reasonably inspect the home before turning it over to the tenant. They said the thermostat on the hot water heater was corroded and had malfunctioned. But they said the landlord's homeowner's insurance carrier, Allstate Insurance, had replaced the defective thermostat while inspecting the apartment after the accident, causing evidence to be discarded.



Weston lawyers Michael Freedland, standing; Mark Glassman
Photo by Melanie Bell

Defense case: Hill did not return calls for comment. According to Glassman, the defense's main argument was that the landlord did not have a responsibility to inspect the hot water heater or any other appliances.

Outcome: Allstate offered to settle for \$100,000, while the plaintiff attorneys demanded at least \$400,000. The insurance policy limit was \$1.3 million. After deliberating for an hour-and-a-half following a three-day trial, the jury awarded the plaintiffs \$924,615 — \$174,615 for medical bills, \$550,000 for past pain and suffering to Morris Zisk and \$200,000 for pain and suffering to Caroline Zisk. Plaintiff attorneys said their clients already have received a payment of \$865,000 — the amount of the verdict minus Medicare set-offs, with legal costs added.

— Julie Kay