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UNITED STATES SINCE 1980.

**\$ _____ RECOVERY - PRODUCT LIABILITY - DEFECTIVE DESIGN OF TRAC-VAC
YARD VACUUM - LACK OF SAFETY INTERLOCK SWITCH - FAILURE TO WARN -
_____ HAND SUCKED INTO ROTATING TURBINE - SURGICAL AMPUTATION OF
DOMINANT RIGHT HAND AT WRIST.**

Northampton County, PA (169243)

This product liability action was brought against the manufacturer, distributor, and retail seller of a yard vacuum which the plaintiff alleged was defectively designed and lacked adequate warnings. The plaintiff was attempting to clear a clog from the machine when his right hand contacted the rotating turbine inside and caused injuries which necessitated amputation of the hand. The defendant argued that the machine was not defective when properly used and that the plaintiff assumed a risk of injury by placing his hand near the rotating turbine.

On November 2, _____, the plaintiff was a 52-year-old man who was clearing leaves from his property using a model _____ Trac-Vac pull-behind lawn vacuum, designed and manufactured by the defendant, Palmor Products. A pull-behind lawn vacuum is a gasoline-powered machine that is hitched to a lawn tractor to vacuum and shred lawn debris such as leaves, sticks and grass and deposit the debris into a container.

The plaintiff claimed that the intake hose of the Trac-Vac became clogged and he attempted to clear it. He testified that he turned off the tractor and walked back to the still-running Trac-Vac. When the plaintiff pulled the intake hose off the machine, he claimed that his right hand was inadvertently sucked into the rotating turbine. The plaintiff alleged that he, as well as his neighbors who owned the same machine, had previously cleared clogs from the intake hose in this same manner without incident.

The plaintiff's engineering expert testified that the Trac-Vac was defectively designed in that it lacked a safety interlock switch which would have shut down the rotating turbine when the intake hose was pulled out. Such a safety interlock would have prevented the plaintiff's injuries and is required by ANSI Standard B71.6 promulgated in the year _____, according to the plaintiff's expert. Evidence showed that the Trac-Vac at issue was manufactured in October _____. The plaintiff also alleged that the Trac-Vac lacked adequate warnings, on both the product itself and in the operating manual.

The plaintiff sustained a severe crush injury to his right hand and underwent immediate reconstructive surgery. However, the plaintiff developed an infection which could not be controlled and he required an additional surgery performed on November 5, _____. A third surgery was attempted on November 7th without success and finally the plaintiff's dominant right hand was surgically amputated at the wrist on November 8, _____.

The plaintiff was on disability for cancer treatment at the time of the accident. He had previously been employed installing natural gas lines and operating heavy equipment for a utility company and was scheduled to return to that job. The plaintiff's rehabilitation expert opined that the loss of the plaintiff's right hand prevents him from performing physical labor and he will require continuing medical care and therapy.

The plaintiff claimed a loss of future earning capacity of between \$ _____ and \$ _____. He also asserted past

and future medical expenses of approximately \$_____, assuming he made a good recovery.

The defendant maintained that the ANSI standard cited by the plaintiff was not applicable because that particular section applies only to those lawn vacuums manufactured for use with a hand-held remote attachment. The defendant manufacturer contended that the intake hose was designed to be attached to the inlet with a band clamp which would prevent the user from removing the hose with the engine running and would have avoided the plaintiff's injury. However, when the plaintiff purchased the unit from the co-defendant retailer, he claimed that no band clamp was supplied with it.

The defense also argued that the product warning label, which stated "WARNING: Stop engine when servicing, cleaning or installing attachments" was sufficient and that the plaintiff was well aware of the danger presented by the rotating turbine inside the machine. The plaintiff argued that the warning label on the machine did not meet ANSI guidelines which require that "DANGER" be specifically spelled out on the label.

The defense additionally pointed out that the plaintiff was fitted with a prosthesis that allowed him to use his right hand for many functions and that his employer was willing to take him back with accommodations at the same salary.

The case was settled prior to trial for a total of \$_____. The defendant manufacturer paid \$_____. The co-defendant distributor and retailer seller contributed \$_____ each.

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