

Believing in a Case, and Winning Big

BY TRESA BALDAS LITIGATOR OF THE MONTH

NAME: Christopher Dysart of the Dysart Law Firm in St. Louis

CASE: Hill v. St. Louis Housing Authority and Pinnacle Realty Management Co., No. 002-0682 (St. Louis city, Mo., Cir. Ct.)

OUTCOME: A mother whose 4-year-old son died after falling out of an 11th-story window in a public housing unit won \$18 million after her lawyer convinced the jury that the accident could have been avoided had child-proof guards been installed on the window.

The St. Louis jury in February found that the St. Louis Housing Authority and Pinnacle Realty Management Co. were negligent in not having protected the window with child-proof guards. The jury attributed 40% blame to the housing authority and 60% to Pinnacle, a Seattle-based company that will have to pay the entire award because the housing authority is a public entity and cannot be hit with punitive damages exceeding \$300,000. Punitive damages in this case were \$16 million; the other \$2 million represented compensatory damages.

Christopher Dysart, the plaintiff's lawyer, said he expects an appeal. According to Dysart, the accident happened on June 12, 2000, while the young victim, Terrance Hill, was in a bedroom playing with an older sibling and some friends.

Dysart said that nobody actually witnessed the accident, and that Terrance was last seen trying to climb in a top bunk. He said the boy was not seen again until his body was discovered on the ground, 11 stories below, with a window fan next to his body. Dysart said a screen had been pushed out.

Dysart focused on the lack of child-proof window guards and on a 1970s federal law that requires a public housing authority to respond within 24 hours to a tenant



emergency. According to Dysart, there were once guards on the windows, but they were removed after they started falling out. He said the mother, Carla Hill, repeatedly complained and requested new guards.

Dysart said he focused on the federal law because Missouri does not require guard rails in high-rise public housing windows, unlike some states, including New York and New Jersey, that do.

WHAT ATTRACTED YOU TO THIS CASE? What excited me about the case was the fact that she had requested the window guards. And then when I did some initial research, I found out this kind of thing happens 4,700 times a year--children go out of windows out of high rises. That got my attention.

AS A LAWYER, WHAT WAS IT LIKE EMOTIONALLY HANDLING A CASE LIKE THIS? It's very emotional. I really got caught up in the fact that it's been known for 30 years that you can prevent children from falling out of these high-rise windows with child guards and it's not being done, and that got me worked up.

HOW DID THIS CASE DIFFER FROM OTHERS YOU'VE HANDLED? This case presents what I consider to be a big, nationwide issue. That made it very important to me. This has been one of the most important issues I've ever represented because of the nationwide scope of the problem.

WHAT WERE YOUR STRONGEST ARGUMENTS IN THIS CASE? The fact that the mother repeated-

ly asked for the guard; the clear evidence that she had asked for the child guard; the expert testimony that the solution to the problem has been known for so long....It would have only taken them 15 minutes to install [the guards] but they made a conscious decision that this was not a priority.

WHAT WERE SOME OBSTACLES YOU FACED IN THIS CASE? Their defense was that the mother should not have allowed the child to sleep in the bedroom, the fact that she had the bed close to the window, which she shouldn't have.... In St. Louis, there were editorials about this case. When this originally happened, a lot of people said it was a tragedy that the mother could have prevented. That's always hard to overcome and that's why it was really great [the jury] said she was zero at fault.

WHAT ARE SOME OF YOUR CAREER HIGH POINTS? This is certainly one. When I was a federal prosecutor I had some medical fraud cases that I liked. It was great also having the FBI work for you.

Working for the Department of Justice was a big highlight. And when I started being able to represent plaintiffs in general in trying to make a difference, actually change behavior.

ANY LOW POINTS? Trying to run my own office is a low point, trying to juggle all the cases.

DID THIS CASE LEAVE YOU WITH ANY LESSONS YOU CAN PASS ON TO OTHER LAWYERS? I think the message is if you personally believe in the merits of your case, or in the justice of your case, then know it's worth the fight. You can turn other people into believing the same thing....I was really the person most sold on this [recent] case. The people in my office thought it wasn't a big deal, but I always thought it was a big deal. You have to fight for what you believe in, and that was a big lesson for me.