

\$40.5 Mil. Agreement Reached in Lethal Fire Case

Six Persons Were Killed In 2001 Apartment Blaze

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Settlements totaling \$40.5 million have been reached in a case that involved a June 2001 fire at a Hatboro apartment building that killed six and injured six mostly elderly residents. Named as defendants in *Manlove v. Scully Co.*, according to court papers, were Scully, landlord of the Village Green Apartments; the Coin Automatic Laundry Equipment Co. (CALECO), which supplied the gas-powered laundry machine whose pipe was ruptured during a flood, allegedly leading to the fire; PECO, which the plaintiffs claimed failed to install an automatic shut-off device for the gas line when a flood occurred in the building; and several railroad companies that used a bridge over a nearby creek that is said to constrict the flow of the creek, possibly causing upstream flooding in the vicinity of the building.

Attorneys involved in the case said that a trial in the matter - expected to last roughly four to six weeks - was to have begun today. Scully and CALECO, which shared overlapping insurance policies, settled mid-day yesterday for \$27.5 million; PECO, for \$11 million; and the railroad defendants - including Conrail, Norfolk Southern and Pennsylvania Lines - settled for \$2 million collectively.

Eleven of the 12 plaintiffs were represented by Tom Kline of Kline & Specter, and the remaining defendant's attorney was Alan Feldman of Feldman Shepherd Wohlgerlerner & Tanner. The families of the decedents will each receive approximately \$6.1 million, while the remaining \$3.8 million will be distributed in various amounts to the non-death plaintiffs, whose injuries range from a back fracture to head injuries, Kline said.

All the death claims in the case involved non-wage earners, Kline noted.

"There was a challenge in establishing and documenting the enormous pain and suffering that our clients sustained," Kline said. The deceased were all residents of Building A of Village Green Apartments, according to court papers. Kline said that five of the six decedents were elderly, as were many Village Green residents; the sixth, Roger Williams, 29, was the mentally challenged grandson of a resident of Building A.

Those who died were burned alive as they huddled in one apartment, awaiting rescue, according to court papers.

Feldman represented 80-year-old resident John Manlove, who died in the fire. He said that Kline led the plaintiffs' negotiations in the case.

"Tom played an extremely important role in the negotiations that led to the ultimate settlement," Feldman said. "But I think the outcome of the case in terms of the settlement number was a fair reflection of the catastrophic nature of the case and of the injuries sustained by these mostly elderly people."

Feldman also praised attorneys Andrew Youman and David Caputo of Kline & Specter and Daniel Mann of Feldman Shepherd, who he said were "largely responsible for the preparation" of the plaintiffs' case.

Seventy-one depositions were taken in the case, Kline said, and the plaintiffs had commissioned nine reports as to liability alone from experts in fields such as property management and metallurgy.

Robert Britton of Post & Schell, who represented Scully and CALECO's insurers, said that he believes all parties involved are happy "that the matter is resolved and behind them."

"It would have been a very lengthy and involved trial," said Britton, who had been retained by CALECO's insurer, OneBeacon Insurance Group, and Scully's excess carrier, Ohio Casualty Insurance Co.

The plaintiffs claimed in their pre-trial memorandum that the fire started when excess rain from Tropical Storm Allison caused a flood in the basement of Building A, shifting a dryer machine from its original position. The dryer's gas pipe then broke, supposedly allowing gas to leak throughout the building over a two-hour period.

An unknown ignition source, thought to have come from an apartment on one of the lower floors, caused a massive explosion.

The plaintiffs asserted in court papers that Scully had failed to properly flood-proof the building, to create an emergency evacuation plan and to turn off the gas service once the flood began; that CALECO had not adequately secured the laundry equipment or the gas pipes that fed them their power; that PECO had not employed an automatic shut-off device; and that the railroad defendants had not fulfilled their obligation to ensure that the bridge over Pennypack Creek would permit enough water to pass during a flood so that upstream areas would not be affected.

A mediation was conducted in July with Thomas Rutter of ADR Options Inc., Kline said, followed by a settlement conference that was held before Philadelphia Common Pleas Judge Jacqueline F. Allen.

Kline said that in the days leading up to a trial before Judge Paul P. Panepinto, he held separate negotiation sessions with Britton, representatives for PECO and counsel for the railroads, respectively. The railroads settled late last week, and PECO followed suit yesterday morning. Britton said that he agreed to settle on behalf of his clients mid-day yesterday at a conference before Panepinto.

Britton and Kline declined to discuss specific offers and demands made by either side leading up to the settlement; both said that they had been engaged in ongoing dialogue in recent weeks.

"This was not a case that was settled with [a mediator], it was not a case that was settled with the courts," Kline said. "It was one of those cases where counsel were able to directly and maturely discuss the case and reach a conclusion."

PECO's attorney, Joseph Donley of Kittredge Donley Elson Fullem & Embick, said that the fire was caused by a convergence of factors beyond his client's control.

"Although the explosion and fire which occurred involved a gas pipe for which PECO had no responsibility, we recognized that given the complexity of the liability issues, the nature of the damages and the potential jury verdict, a global settlement was in the best interest of the company," Donley said.

Richard Hohn of Hohn & Scheuerle, counsel for the railroad defendants, called the case against his clients "tenuous," and noted that he believes there was a "distinct possibility that the insurance coverages available to the other defendants might [have been] insufficient and thus expose all defendants to liabilities greater than their shares of liability as assigned by a jury."

Scully's attorney, Jerrold Anders of White & Williams, declined to comment. CALECO's attorney, Fred Buck of Rawle & Henderson, did not immediately respond to a call seeking comment.

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