

## OPINION SUMMARY

### MISSOURI COURT OF APPEALS EASTERN DISTRICT

#### DIVISION FOUR

ANGELA MARTIN, et al., ) No. ED90885  
)  
Respondents, ) Appeal from the Circuit Court of  
) the City of St. Louis  
v. ) Cause No. 042-08883  
) Honorable Michael B. Calvin  
SURVIVAIR RESPIRATORS, INC., et al., )  
)  
Appellants. ) Filed: August 4, 2009

The family of a deceased firefighter ("Martin") sued the manufacturers of the firefighters' equipment, Survivair Respirators, Inc. ("Survivair") because of alleged malfunctioning of equipment that contributed to Martin's death. The jury returned a combined verdict in favor of Martin's family for \$27 million. Survivair appeals, arguing that the family failed to make a submissible case as to causation and aggravating circumstances damages; and that the trial court abused its discretion in admitting evidence of other incidents of malfunctioning equipment, and in denying Survivair's motions for remittitur. Martin's family cross-appeals, arguing the trial court improperly allocated the verdict between Martin's surviving family members.

AFFIRMED.

Division Four Holds: The family made a submissible case as to causation because the jury could find that both the valve and the PASS alarm contributed to cause Martin's death. The family made a submissible case as to aggravating circumstances because there was evidence Survivair knew of the defects with its products and did nothing about it and even tried to prevent the information spreading. The trial court did not abuse its discretion in admitting evidence of other incidents of equipment malfunction as sufficiently similar. The trial court also did not abuse its discretion in denying remittitur because the damages were not grossly excessive, nor did the court abuse its discretion in allocating damages among the plaintiffs.

Opinion by: Kenneth M. Romines, J.  
Kathianne Knaup Crane, P.J. and Mary K. Hoff, J., concur.

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