

# Missouri Lawyers WEEKLY

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## Jury rules for worker who touched live wire

*But defendant company held only 60 percent at fault*

By **SCOTT LAUCK**

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A technician who suffered a severe shock while servicing a heat pump won a \$13.6 million verdict.

The verdict is the largest this year for an individual plaintiff in Missouri among cases reported in Missouri Lawyers Media's V&S Search database.

But the jury also held him 40 percent at fault for his injuries, so his ultimate award will be knocked down.

On July 14, 2008, Donald Chapman was doing maintenance work at St. Luke's East

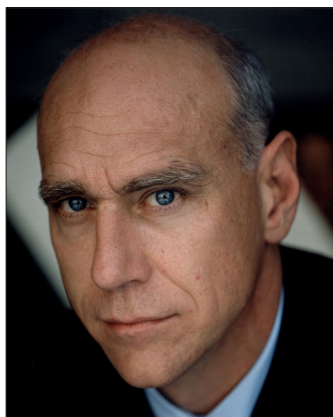
hospital in Lee's Summit. He touched an exposed wire on the heat pump and suffered a shock from about 480 volts of electricity.

Chapman fell from a ladder and landed on the corner of a table, suffering multiple broken ribs and a lacerated spleen that surgeons had to remove. He also contracted methicillin-resistant Staphylococcus aureus, or MRSA, during his treatment. Chapman's attorney, Brian Timothy Meyers, said Chapman remains on high-dose opioid medication to combat chronic neck pain and no longer can

work.

Chapman's lawsuit, filed in Jackson County Circuit Court in 2009, made a product liability claim against the EM060-4H2C heat pump's maker, Fort Lauderdale, Fla.-based FHP Manufacturing Co. The suit said a panel should have covered the heat pump's wiring.

FHP, however, argued that Chapman was an experienced technician familiar with the dangers of working with live electrical components. It also pointed out that Chapman admitted that he knew the pump had exposed wiring when he began his work.



Brian Timothy Meyers



Brian C. McCart



Peterson Andreone

### \$13.6 million verdict

#### PRODUCT LIABILITY

■ **Breakdown:** \$7,116,672 in actual damages; \$4.5 million in punitive damages; \$2 million for loss of consortium

■ **Venue:** Jackson County Circuit Court

■ **Case Number/Date:** 0916-CV18460/Aug. 28, 2012

■ **Judge:** Robert M. Schieber

■ **Special Damages:** \$424,818 in past medical bills; \$2.4 million in future economic loss

■ **Plaintiffs' Experts:** Kenneth Blundell, Kansas City (mechanical engineering); Dr. Adrian Jackson, Overland Park, Kan. (orthopedic surgery); Dr. Steven Simon, Leawood, Kan. (physical medicine/rehabilitation, pain management); Dr. Frank Holladay, Kansas City, Kan. (neurosurgery); Dr. Glenn Amundson, Overland Park, Kan. (orthopedic surgery); Terry L. Cordray, Overland Park, Kan. (vocational rehabilitation); Kurt Krueger, Prairie Village, Kan. (economics)

■ **Defendant's Experts:** Robert Schwarzkopf, Fort Lauderdale, Fla. (mechanical engineering/product designer), Herman Lloyd, Kansas City, Kan. (heating, ventilation and air conditioning)

■ **Allocation of Fault:** 60 percent to defendant, 40 percent to plaintiff

■ **Caption:** Donald and Tammy Chapman v. FHP Manufacturing Co.

■ **Plaintiffs' Attorneys:** Brian Timothy Meyers, Peter K. Andreone and Brian C. McCart, The Law Offices of Brian Timothy Meyers, Kansas City

■ **Defendant's Attorneys:** Robert T. Adams and Jason Zager, Shook, Hardy & Bacon, Kansas City

Meyers responded that the heat pump was located in a hard-to-reach space and it would have been impractical for Chapman to repeatedly shut off and turn on the electricity as he worked on the unit.

“Our argument was that [FHP] knew when they designed these things that guys are going to be up in ceilings or over assembly lines or in hospitals in tight, hard-to-get-to places, and they’re going to be exposed to a panel that has 480 volts unless you put a cover on it,” he said.

The case went to trial on two liability the-

ories: defective design and failure to warn of the danger. According to the suit, a prior model of FHP’s heat pump had a steel cover over the live electrical parts, but that was removed in 2004, which the plaintiffs alleged was because the price of steel rose dramatically at that time. The plaintiffs’ mechanical engineering expert, Kenneth Blundell, testified that it was the first time he could recall where a manufacturer intentionally designed danger into the product.

An attorney for FHP, Robert T. Adams, of Shook, Hardy & Bacon, said the company

intends to appeal but otherwise declined to comment.

Following a seven-day trial in Kansas City, the jury on Aug. 28 awarded Chapman \$7,116,672 in actual damages and \$4.5 million in punitive damages. His wife, Tammy, was awarded \$2 million on a loss of consortium claim.

FHP, however, was only found to be 60 percent at fault. Meyers said he expects the actual damages and the consortium award to be reduced, but not the punitive damages.

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