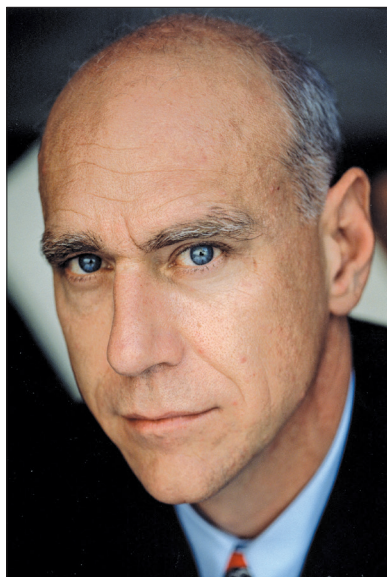


Missouri Lawyers WEEKLY

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Woman scalded in shower settles with apartment owner *57-year-old fell, lost consciousness in shower*



Brian Timothy Meyers

By SCOTT LAUCK

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A tenant who was scalded in the shower at her apartment reached a confidential settlement in a premises liability action against the building owner.

On July 7, 2011, Anne Barth, 57, was showering for the first time in her new apartment at the Willow Creek apartment complex in Kansas City. While showering, she fell to the shower floor and landed with her legs pinned awkwardly under her body.

Barth lost consciousness and lay under the stream of water for over an hour. She had no memory of the event.

Firefighters rescued Barth after a tenant in the apartment below noticed water leaking through his ceiling and called the fire department. They found Barth still in the shower, moaning in pain and severely scalded.

Barth suffered severe burns to approximately 40 percent of her body and was hospitalized for nearly two months while she underwent multiple skin graft surgeries. According to her attorneys with The Law

Offices of Brian Timothy Meyers in Kansas City, Barth incurred \$1.5 million in medical bills, and an expert witness put her life-care plan at \$3.3 million.

In a lawsuit filed in Jackson County Circuit Court in 2012, Barth claimed that the shower's water "rose to a dangerously high temperature," causing her to lose consciousness. The suit claimed the building's managers were negligent for keeping the water too hot and failing to have adequate safety valves.

The defense, however, attributed Barth's passing out to her uncontrolled diabetes. She had lost consciousness dozens of times in the five years preceding the accident.

The building manager's lawyers also argued that the water that caused her burns was less than 120 degrees, and that the plumbing complied with the city's building

code and therefore met the standard of care. Barth's attorneys found tenants and former maintenance people from Willow Creek to testify that the unregulated hot water in the shower went from scalding hot to freezing cold and that Willow Creek was well aware of the problem.

Barth also alleged that the event negatively affected her diabetes and overall health, and she was subsequently hospitalized multiple times for infections and other health issues related to the burns. The defense further argued that Barth's health issues after the burns healed were related to her diabetes, not the incident.

An attorney for Willow Creek, Brian R. Plegge, of Brown & James in St. Louis, did not respond to messages seeking comment.

The parties settled the case in April, shortly before it was set to go to trial. **MO**

Confidential settlement

PREMISES LIABILITY

Court: Jackson County Circuit Court

Case Number/Date: 1216-CV01719/April 22, 2013

Judge: David M. Byrn

Plaintiff's Expert: Plaintiff's Experts: Dr. Dhaval Bhavsar, Kansas City, Kan. (plastic surgeon/ burns/reconstructive surgeon); Ronald L. George, Monroe, Mich. (plumbing-tech design/engineering); Dr. Steven Simon, Overland Park, Kan. (physical medicine rehabilitation and pain management); Stanley V. Butts, Kansas City, (psychologist); Kurt Krueger, Prairie Village, Kan. (economist); Tracy Wingate, Olathe, Kan. (life care planner).

Defendant's Experts: Dr. Jonathan Pollack, St. Louis (plastic surgeon/reconstructive surgeon); Cathlin Vinett Mitchell, Brentwood, Tenn. (life care planner); Julius Ballanco, Munster, Ind. (plumbing codes/engineering); Michael W. Gartenberg, Creve Coeur (plumbing codes/engineering); George "Brick" Johnstone, Columbia (neuropsychologist); Robert E. "Jay" Marsh, Little Rock, Ark. (economist)

Special Damages: Medical bills of \$1.5 million; life care plan of \$3.3 million.

Insurance Companies: Zurich American Insurance Co. & XL Insurance

Caption: Anne Barth v. Willow Creek IV Limited Partnership and Price Brothers Management Co.

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

Defendant's Attorney: Brian R. Plegge and Justin A. Hardin, Brown & James, St. Louis