

\$50 million verdict said largest in state

By RENEE BUSBY
Press Register Reporter

A \$50 million verdict returned by a jury here Friday night in connection with the death of five people who died of carbon monoxide poisoning is the largest in the state, according to one of the plaintiffs' attorneys.

Buddy Brown, who represented the heir of four of the victims, said the verdict is the "biggest" in Alabama.

The five people died of carbon monoxide poisoning on Dec. 23, 1985, in a house on Sybel Drive in west Mobile. The bodies were discovered by a babysitter who smelled fumes coming from the residence.

The lawsuit alleged the deaths were caused by a defective vent or exhaust system on the central gas heater located in the house.

The trial before Mobile County Circuit Court Judge Douglas Johnstone lasted two weeks and jury deliberations took about two hours.

The \$50 million judgment was against Luxaire Inc., the manufacturer of the central gas heater in the rental house Mark Kimbrell McDonald, 27; his wife, Donna Lynne McDonald, 31, and their three-month-old daughter, Meagan Nicole McDonald, were living in at the time of their deaths. Mrs. McDonald's parents, Ottis Joe Wilburn, 60, and Nell Corum Wilburn, 58, of Athens, Ala. also died.

In addition, the jury found in favor of three defendants named in the case. They were: Farnell Heating and Air Conditioning Inc., Grayson Heating and Air Conditioning Inc. and Betty and Steve Dany. The Dany's owned the house the McDonald's were renting.

"The evidence showed Luxaire manufactured the heater in May 1979 and it was installed by local installers. After the installation, the then-owners of the house, within 18 months, were overcome by fumes in January 1981," Brown said, recalling the evidence.

The house was then sold to the Dany's, the attorney said.

He said Mobile Gas Service Corp. went to the house, examined the heater and "erroneously diagnosed the

problem in 1983, after the house had been sold to the Dany's." Initially, Mobile Gas was named as a defendant in the lawsuit, but the gas company settled with the plaintiffs for \$11.5 million in 1987.

Brown said the Dany's also had a problem and were overcome by the fumes and in April 1983 Luxaire inspected the house and "discovered the defect with the heater, but failed to notify the new homeowners (the Dany's) of the problems with the furnace."

The attorney said evidence showed the carbon monoxide level in the house could rise to four times its necessary level "by simply closing a hall door" in the house.

Stuart Wallace, the Dany's attorney, said the evidence showed Mobile Gas had assured his clients in 1983 the heater was safe. "My clients had no idea anything was wrong," he added.

"The jury felt like the history and evidence indicated Grayson wasn't at fault. It was a tragic accident that could have been avoided," commented Thomas Rue, attorney for Grayson Heating and Air Conditioning.

Commenting on the verdict, attorney Chuck Miller said, "We are pleased that the jury returned a verdict in favor of Farnell Heating and realized from the evidence that Farnell had no liability for this tragic accident." Cooper Thurber and Miller represented Farnell Heating and Air Conditioning.

In its verdict, the jury awarded \$40 million to Archie Wilburn, as administrator of the estates of Mrs. McDonald, her three-month-old daughter and her parents. Wilburn was Mrs. McDonald's uncle.

The jury also awarded a judgment of \$10 million to Sylvester McDonald, Mark McDonald's father. Jim Pratt, a Birmingham attorney, represented McDonald in the lawsuit.

At the time of his death, McDonald was a graduate student studying biomedical sciences at the University of South Alabama College of Medicine. He received his bachelor's degree from Loyola Marymount.

Mrs. McDonald was a nurse in the intensive care unit at Springhill Memorial Hospital.

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