

Bartlit Beck Beats Back Philadelphia Firefighters' Hearing Loss Claims Against Federal Signal

By Alison Frankel

If you ever wanted to conduct a case study on how a couple of evidentiary rulings can profoundly affect a trial's outcome, the litigation over firefighters' claims of hearing loss from exposure to Federal Signal sirens would be a perfect candidate.

In 2008 Federal Signal's lawyers at Bartlit Beck Herman Palenchar & Scott defeated the design defect claims of 27 Chicago firefighters at trial, in part, according to Sean Gallagher of Bartlit, because the firm introduced evidence that the firefighters' emergency vehicles were designed to insulate them from the sound of sirens. The next year, plaintiffs lawyers Jordan Margolis of The Margolis Firm and Joseph Cappelli of Cappelli Mustin revised their claims and persuaded the same Chicago state court judge to bar evidence of the emergency vehicles' design. With Federal Signal again represented at trial by Bartlit Beck, nine firefighters won a \$425,000 verdict. (The case is on appeal.)

How significant was the excluded evidence of emergency vehicle design? Just ask the 12 Philadelphia state court jurors who heard the most recent trial of firefighters' claims against Federal Signal. Judge Norman Ackerman permitted the

vehicle design evidence in--and on Friday, after a two-week courtroom rematch between Bartlit Beck and Cappelli Mustin, the jury returned a complete defense verdict on the claims against Federal Signal by nine firefighters.

"Emergency vehicles are designed to reduce the sound levels where the firefighters sit," Gallagher told us. "Our story is more compelling when we can couple our defense of the sirens with an explanation of how the vehicles are designed.... All of that is necessary context."

Plaintiffs lawyer Cappelli didn't return our call for comment.

Federal Signal has fared relatively well in the firefighter hearing loss cases, with dozens of Illinois, New Jersey, Maryland, and Missouri plaintiffs voluntarily dismissing cases in the last two years, according to the company, which at one time faced some 3,500 suits by firefighters.

The next trial, Gallagher said, will be in Philadelphia in July, although Bartlit Beck won't be handling it. Lead defense counsel will be Thomas Jayne of Thompson Coburn.