

***Estate of Lucy McReynolds v. American Kitchen Co. (AMKCO)***  
**Plaintiff's Case-In-Chief Advocating the Reptile Theory**

**By Douglas J. Pomatto**  
**Heyl, Royster, Voelker & Allen, P.C.**

Plaintiff is a salt-of-the-earth, very religious woman, a 72-year-old grandmother who lived in Norton, Virginia, all of her life, and a long-time member of the community who worked there and raised her 5 children there.

She was not formally educated like many in this coal-mining community, but she worked hard at several service jobs at places that catered to the coal industry.

What would be her final job was as a kitchen assistant at the All-Suites Hotel. It was the kind of job that was typically staffed by "locals," those of lesser skills and education in the community. Although, as Lucy was Robert's mother, she could have been anyone in the community's mother or grandmother, giving back to the community what she sowed. Or, perhaps the kitchen assistant would be someone's son or daughter, say, perhaps a local high schooler or student going to college, needing part-time work and to make some money.

AMKCO fryers, or ones virtually identical to them, are found in virtually every restaurant in the country, many in communities very similar to Norton and many where people like Lucy work.

The fryers, by their very nature, are dangerous: Their use requires heating up of a large amount of cooking oil to temperatures over 400 degrees around open flames. This scalding oil around open flames exposes not only people using the fryer to extreme danger, but also kitchen personnel around them. Cooks and kitchen assistants working nearby and, in the event of a fire or possible explosion of the highly flammable substance, those from out of town staying at the hotel that houses the restaurant and even "locals" eating in the restaurant, are at risk.

In sum, an unsafe, dangerous fryer potentially poses a risk to the community in general and their loved ones.

AMKCO knew of this danger. Safety warnings, no less than 14, are plastered all over the fryer instructions for use. The words "Safety Safety Safety Safety Safety" are printed on the top and bottom of several pages of the installation and maintenance manual.

More importantly, AMKCO knew of potential problems with the stability of the fryer: (1) The product manual specifically outlined that proper restraints needed to be used to prevent fryer movements: User Manual 1.4 Warning; and (2) knew per industry standards that the fryer had to be secured by something other than the gas line cord; and (3) knew of three other incidents in the last two years of their fryers tipping, apparently from others trying to access the wall behind and above the fryer.

A manufacturer of a dangerous fryer like the AMKCO 35C must follow all safety rules, not just some. While the company's fryer did meet the ACKAA and ANSI stability tests, AMKCO did not follow through with the most basic safety rule; that is, to ensure the fryer is "completely" stable and that certain things need to be done to make the fryer completely stable, and that certain equipment was needed to be provided to the consumer to do so.

Plaintiff's counsel is confident that he can obtain admissions from AMKCO personnel and, in particular, its corporate representative, Anthony Peale, that:

- AMKCO's intent is always to manufacture a safe product, that, in doing so, there are certain industry standards but also that safety rules and common sense need to be followed;
- It is not acceptable to follow some rules with respect to product safety but not others;
- AMKCO's fryer, by its very nature, when heating oil over 400 degrees near open flames, poses a danger to community members, which includes persons working at or near it, like Lucy, and, if fire occurs, to persons in the kitchen and even in the restaurant and hotel;
- A fryer without secondary security devices is not completely stable;
- A fryer that is not completely stable is unreasonably dangerous;
- By not warning of the danger of instability without more than a gas line cord to secure its fryer, AMKCO's fryer exposes kitchen assistants and those working near the fryer to unnecessary risk of being burned and injured;
- A fryer without such a warning is "unsafe";
- There are safer options available, particularly that of providing secondary security measures with the fryer to ensure proper installation and complete stability;
- Mr. Peale has "no explanation" as to why the product manual and its warnings do not include the need for a secondary security device to prevent tipping and ensure complete stability;
- To not provide that warning is simply careless, given the knowledge of the problems of potential instability without secondary security devices;

- As such, by not providing such a warning and by not providing secondary security devices themselves for the consumer to use, AMKCO placed an unsafe and defective product into the stream of commerce; and
- By not providing such a warning and by not providing secondary security devices themselves, AMKCO was negligent;
- Had AMKCO provided warnings and secondary security devices and followed common-sense rules of safety, Ms. McReynolds would not have been scalded and burned to death.

Plaintiff's counsel is certain he can convince the trial judge to allow him to argue:

- That AMKCO knowingly broke safety rules and manufactured an unsafe fryer;
- That jurors are the protectors of community safety;
- That his client, Ms. McReynolds, a long-time member of the community, could have been any juror's mother or grandmother working in that All-Suites kitchen;
- That Ms. McReynolds suffered horrendous, painful burns and a tragic death; and
- That by their verdict, the jury should make their community safe and "send a message" to AMKCO that this tragedy should never happen again!

32679369\_1