

# SECURING A FAVORABLE SETTLEMENT FOR A WATER HEATER MANUFACTURER AFTER A FATAL FIRE.

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## Our Client's Challenge

Three workers were using an allegedly flammable liquid solvent to strip glue off a concrete floor in the basement of an apartment in suburban Chicago. A water heater manufactured by our client was also located in the basement. The water heater did not have safety technology to help prevent its pilot light from igniting the nearby flammable vapors. (This technology was federally mandated shortly after this heater was manufactured.) The solvent ignited and started a fire that burned two of the workers and killed the third. Our client's water heater appeared to be "on," based on the thermostat setting, and was the "obvious" ignition source, making it an easy target for plaintiffs' counsel.

## Our Approach

We assembled a team of experts from diverse fields to prove that the "obvious" ignition source was not necessarily the actual ignition source. Our forensic chemist demonstrated that the "flammable" liquid solvent would not have been ignitable had it not been spiked with gasoline, which we discovered through lab testing.

A materials engineering expert with a strong background in fire science showed, through video testing, that the scraping of a metal tool near the spiked solvent was capable of producing sparks that could have ignited the gasoline vapors.

A third expert with experience in the design of HVAC systems for commercial buildings and apartments testified that, based on utility records, there was not enough natural gas usage for the water heater to have been operating at the time of the fire. In fact, the unit had been vacant for two months due to a prior, separate kitchen fire. Therefore, the water heater that appeared "on" was actually "off" at the time of the flammable vapor event and could not have ignited the fire.

Finally, our fire origin and cause expert tied the whole story together and explained why the water heater was not the likely source of ignition, noting that there were other more likely sources that plaintiffs could not rule out.

## The Result

Once plaintiffs' counsel deposed our experts and realized our strategy would likely undermine his entire case, including his very strong claims against the codefendant apartment complex owner, the case settled on a very favorable basis with our client contributing a much smaller share of the settlement than the apartment complex.