

[Products Liability Law Daily Wrap Up, DAMAGES—MOTOR VEHICLE EQUIPMENT—D. Conn.: Court certifies loss of filial consortium claims to Connecticut Supreme Court, \(Jan. 24, 2024\)](#)

Products Liability Law Daily Wrap Up

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By Susan L. Smith, J.D., M.A.

The parents of a child who was injured when the car seat she was sitting in caught fire were successful in their request to have the federal district court certify to Connecticut's high court the question of whether state law recognizes a claim for loss of filial consortium.

After determining that Connecticut law is unsettled as to whether parents can bring loss of filial consortium claims, the federal district court in Connecticut denied the request of infant car seat manufacturers and sellers to dismiss the claims brought against them by parents of a baby who was burned when the car seat the baby was seated in near a stove caught fire. The parents contended that the baby's injuries were caused by the defective design of the car seat and the stove and brought claims under the Connecticut Product Liability Act (CPLA) and the Connecticut Unfair Trade Practices Act (CUTPA). The manufacturers and sellers contended that the CUTPA claims were precluded by the CPLA's exclusivity provision and that Connecticut law does not recognize a claim for loss of filial consortium. The court granted the manufacturers and sellers' request to dismiss the CUTPA claims, but denied their motion to dismiss the parents' loss of filial consortium claims. The court found that certification to the Connecticut Supreme Court for the parents' loss of filial consortium claims was warranted because Connecticut law is unsettled regarding such claims, and the state high court is better equipped to resolve the public policy concerns those claims raise (*L.L. v. Newell Brands Inc.*, January 23, 2024, Shea, M.).

The injury and allegations. On the day of the incident, the mother of the baby put her child into a Graco Car Seat and placed the car seat on a kitchen counter adjacent to an electric range stove. The car seat caught fire after the mother left the baby on the counter to prepare a few things. The baby's aunt entered the kitchen, saw the fire, and rescued the baby from the burning car seat. The baby and the aunt suffered severe injuries and burns. The parents, their child, and the aunt (the family) contended that the components of the car seat failed to pass the burn rates set by Federal Motor Vehicle Safety Standard No. 302 and argued that the manufacturers and sellers (1) knew or should have known that the car seat was in a defective, unsafe, and dangerous condition, and (2) failed to warn customers about the risk of injury. They also alleged that the stove was defective because its knobs "were not articulated with safety mechanisms and accidental touch could rotate the knobs and turn on the burners without warning to the consumer using it."

CUTPA claim. The manufacturers and sellers contended that the family's CUTPA claims were precluded by the CPLA's exclusivity provision and argued that the claims fell within the scope of the CPLA. The family conceded that their CUTPA claims were precluded by the CPLA and voluntarily withdrew those counts; thus, the court dismissed the CUTPA counts.

Loss of filial consortium. The manufacturers and sellers argued that Connecticut law does not recognize a cause of action for loss of consortium brought by parents for the loss of companionship of a child. The parents contended that Connecticut law is unsettled as to whether parents can bring loss of filial consortium claims and recommended that the district court certify the issue, noting that another judge in another case had certified the issue to the Connecticut Supreme Court in 2021 (but it has been deferred). The district court explained that a question to the Connecticut Supreme Court may be certified if the answer may be determinative of an issue in a case before it and if there is no controlling appellate decision, constitutional provision, or statute. The parties acknowledged there was no appellate decision, constitutional provision, or statute governing loss of filial consortium claims in Connecticut. The court noted that when deciding whether to certify a question to the

Connecticut Supreme Court, the court should consider: (1) the absence of authoritative state court decisions; (2) the importance of the issue to the state; and (3) the capacity of certification to resolve the litigation.

As to the absence of authoritative state court decisions, the court stated that the Connecticut Supreme Court in 2015 addressed for the first time a cause of action by a minor child for loss of parental consortium resulting from an injury to a parent, but has not addressed the issue since. In addition, Connecticut trial courts have been split as to whether Connecticut law permits a cause of action by a parent for loss of filial consortium. Addressing the importance of the issue to the state, the court found that the absence of authoritative state decisions and the split at the trial court level favored certification. In addition, the court reiterated the statement of the judge who previously certified the question of whether Connecticut law permits a loss of filial consortium claim: the question “presents a sensitive issue of tort law within the peculiar province of the state and the answer will involve weighing important policy considerations.” Finally, the court stated that the loss of filial consortium question may be determinative of an issue in this particular case. The court was concerned that if it were to defer judgment on this question, as the manufacturers and sellers proposed, it could not be certain the Connecticut Supreme Court would answer the question during the course of this litigation. Thus, the court concluded that certification to the Connecticut Supreme Court was warranted.

The case is No. [3:23-cv-00803-MPS](#).

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Companies: Newell Brands Inc.; Target Stores, Inc.; Haier US Appliance Solutions, Inc. d/b/a GE Appliances; General Electric Co.

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