

Ionization smoke detectors and Photoelectric smoke detectors By Lessing E. Gold

The Supreme Court of Iowa recently examined a case analyzing the difference between ionization smoke detectors and photoelectric smoke detectors. *Mercer v. The Pitway Corporation and BRK Brands, Inc.*, involved Nathan Mercer, who purchased and installed two BRK brand Model 83R-ionization smoke detectors in his home. Two years later, a fire claimed the life of one of his sons, and severely injured another. The Mercers claimed the smoke detectors did not signal the existence of the fire, ultimately causing the tragedy.

The evidence showed that the defendant, BRK, manufactured both ionization and photoelectric smoke detectors, as well as a combination smoke detector sold at the retail level. The combination detector combines both the ionization and photoelectric features in one unit.

The Mercers contended that the liability of BRK rested on its decision to market the Model 83R ionization smoke detector as a "stand alone safety device," when it knew that it did not promptly alarm certain types of home fires. The claim was that if the Mercers had a photoelectric smoke detector or a combination detector, it would have given earlier warning. Plaintiffs also claimed that BRK knew the Model 83R ionization detector might have a delayed reaction in detecting types of fires, such as ones that produce large smoke particles (like the one that occurred in the Mercer home).

After the matter was tried to a Jury, the Mercers obtained a large compensatory verdict, and a verdict against BRK for punitive damages. BRK appealed. The Court reversed the case, based on the fact that the Trial Court had permitted the plaintiffs to improperly submit consumer complaints relating to other incidents, and the Court also held that the plaintiffs had produced insufficient evidence to sustain a verdict for punitive damages.

However, in sending the matter back to the Trial Court, the Court did hold that the plaintiffs had submitted enough evidence regarding the defective nature of the product to proceed on the basis of strict liability (based on a design defect). The court also held that it was a Jury question as to whether or not the BRK state of the art defense was valid.

It was also a Jury question as to whether or not BRK had failed to warn consumers that the Model 83R might fail to alarm in certain types of fires. The Court also held that it was a Jury question as to whether or not the defendants had adequately warned the consumer of the potential hazard. Likewise, the Court held the plaintiffs had presented sufficient evidence to support its claim of negligent design.

It is apparent that certain disclosures must be made. Also, in the future manufacturers should look carefully at the nature of their representations and their disclosures.*