



\$2.3M ACCIDENT SETTLEMENT



Joseph Ginarte



Richard Winograd

By Lisa Brennan

Ayala v. Airdyne Inc. : An Elizabeth woman, her husband and a second man injured when leaking gas from an overfilled propane tank burst into flames agreed to a \$2.3 million settlement last Monday with the propane distributor's insurer and the Latin Chamber of Commerce in Elizabeth.

Nubia Ayala, 53, who suffered burns over 90 percent of her body from the explosion caused by leaking propane and a nearby grill's fumes, will receive \$2 million. Her husband, Roberto, who was hooking up the propane tank at the time of the accident, will receive \$270,000 for his injuries. The third victim, Claudio Ramos, will get \$30,000.

The settlement was reached on Nov. 3 after Union County Superior Court Judge John Pisansky had set trial on Nov. 6. Though AirdyneInc. of Elizabeth, the propane distributor, filed for bankruptcy five years ago, its insurance carrier, CIGNA Companies, agreed to pay \$1.45 million and the Latin Chamber of Commerce agreed to \$850,000, according to two plaintiffs' lawyers and two defense lawyers.

The Ayalas, both Cuban immigrants, had rented a concession booth from the Latin Chamber of Commerce to participate in its annual festival on Sept. 1, 1990.

According to plaintiffs' attorneys *Richard Winograd*, a partner in Newark's *Ginarte, O'Dwyer, Winograd & Laracuenta*, and *Dennis*

Donnelly, a partner with Newark's *Blume, Vazquez, Goldfaden, Berkowitz & Donnelly*, Airdyne overfilled the Ayalas' propane tank, which caused gas to seep out in a steady stream. The propane crossed currents with smoke from a nearby grill and exploded in Nubia Ayala's path, the two lawyers contended.

My client got hit by a fireball and suffered burns over 90 percent of her body, says Winograd. She was hospitalized for five weeks. Her face, her buttocks, her arms and legs were severely burned.

Airdyne initially claimed that the accident was Roberto Ayala's fault. The company's attorney, *John Parker*, a partner with *Psak & Parker* in Middlesex, said his client -- Cigna -- finally agreed to settle, but he declines to elaborate.

Roberto Ayala retained his own counsel, Donnelly, because the defendants contended that he should be held partially liable for the accident, according to Winograd. Roberto Ayala was setting up the tank when the accident occurred.

The plaintiffs also contended that the Latin Chamber of Commerce had failed to take adequate fire prevention measures before the festival. If the area had been inspected, the fire prevention bureau would have [required that the grills be spaced farther apart], says Donnelly.

The chamber was represented by *Debbie Klugler-Erwin*, an associate with *Addas & Potenza* in Jersey City, who declined to comment except to confirm the settlement.

A third defendant, Rego Inc., a valve manufacturer represented by *William Mead Jr.*, an associate in the Mount Laurel office of Philadelphia's *Lavin & Coleman*, will not contribute to the settlement. The plaintiffs' lawyers say Rego would have been dropped as a defendant had the case gone to trial because there wasn't enough evidence to establish that the valve in the propane tank was faulty.