

# Recovery: \$1,430,000

**HEADLINE** CHILD LEFT UNATTENDED IN BATHTUB IS BURNED IN HOT BATH WATER;  
LANDLORD ALLEGED TO BE LIABLE; SETTLEMENT 3 WEEKS PRE-TRIAL

**Settlement:** \$1.43 Million

**Pltf Atty:** Jeffery R. Neubarth, Los Angeles  
**Deft Atty:** Confidential  
**Case:** Doe Child v. Roe Landlord  
**Court:** LA Superior/Central District

**Pltf Experts:** Kenneth R. Diller, D.Sc., Bio-medical Engineer/Heat Transfer, U of T, Austin, TX  
Arthur G. Floyd, Plumber/Contractor/Apt Mgt, Pasadena  
Eric L. White, Apt. Mgt Practices, Los Angeles  
Ralph Phillips, Plumbing Engineer, Los Angeles  
Michel F. Brones, M.D., Plastic Surgeon, Los Angeles  
Mark Sanders, Ph.D, Human Factors, Northridge  
Stanley Goodman, M.D., Child Psychiatrist, Encino  
Robert Johnson, Economist, Los Gatos

**Deft Experts:** Peter Lefte, Architect/Engineer, Malibu  
Creighton Webb, Engineer/Accident Recon., San Diego  
Seth Asser, M.D., Plastic Surgeon, San Diego

**Damages:** Second and Third degree burns to hands and feet; requiring surgery; Emotional distress;  
\$11,000 medi-cal lien

**Facts:** That on 5/24/95, the infant plaintiff age 2 at the time, was burned by hot water in her bathtub in Fresno, California, in a low income apartment complex catering primarily to Southeast Asians which was owned by defendants. Over 3 years later, plaintiff filed suit in LA County, for negligence. Motions to transfer were denied. There were three different judges assigned, all the subject of 170.6 challenges.

**Per Pltf:** The minor's father claimed that he was outside the home repairing his car and had left his children alone in the apartment watching Mrs. Doubtfire, their favorite movie. When he went up to check on the kids about an hour later, he was advised that his oldest son had apparently punched his 2 year old daughter in the nose, and placed her in the tub to wash off the blood, but that he left her alone and she got burned. The father claimed he went to see the daughter, and noted that she sustained burns to her hands and feet. He called his wife who told him that he had to lie to police and not say that he was outside, or the kids would be taken away. The father called the police and ambulance, who responded, and he told them that he had placed his daughter in the tub and stepped away to do cooking, and she got burned in his absence; that he never left the house. At the hospital, suspicions grew and Children's Protective Services was called, which took the children away for over a year, after which they were given back to the parents.. Over three years later, counsel was hired, and investigation ensued in which it was learned that the hot and cold water lines were reversed in the apartment, creating a confusing situation. A repair record was found indicating that it was fixed a few days post incident. Also, it was claimed that the hot water heater was set too high. That industry standard was 120 maximum, and that based upon the burns, it must have been higher. Finally, review of burn patterns indicated that the water was most probably in the range of 150-160, over the safe temperature level.

**Per Deft:** Argued no negligence. Also, that the incident was the result of child abuse, as father told police, ambulance and hospital personnel that he put the child in the tub. In the

*alternative that the father had neglected to watch the children. Also, that the 120 degree standard is not codified and is not a legal requirement, and that the water was in fact within range. Also, that the responsibility to adjust water temperature fell upon the tenant not the manager, since each unit had its own water heater. Finally, that the burn patterns were in fact characteristic of "immersion injury" indicating that the child was held down for a substantial period of time, by another person. In any event, even water at 120 can cause these burns and there was no proper evidence to indicate exposure time.*

**Notes:**

*Settled in mediation at ARC 3 weeks before trial, Judge Robert Frattiane presiding. The property owner paid the settlement to fund a structure which pays \$1.43 Million. Confidential resolutions were reached with product manufacturers for the water heater & faucets.*