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## Jury Says Shirt Co. Not Liable In \$10M Suit Over Child's Burns

By **Ryan Boysen**

Law360 (February 2, 2018, 7:59 PM EST) -- A California federal jury has found that Schwab Co. Inc. is not responsible for severe burns sustained by a child while wearing one of its shirts, clearing the clothing manufacturer of all liability after co-defendants Macy's and Ralph Lauren settled for roughly \$860,000.

Jesus Romero sued Macy's, Ralph Lauren and Schwab in 2015 over injuries he sustained as a child in a 2005 incident. Romero was wearing a Ralph Lauren gingham dress shirt and playing with a lighter when the shirt caught fire, causing "severe, permanent and crippling personal injuries," according to the complaint.

Following a two-week trial in California federal court, the jury on Jan. 24 returned a verdict that found Schwab had manufactured its shirt to applicable safety standards, had not misrepresented its shirt as 100 percent cotton and had not acted negligently, among other things.

"It is always tragic when a child is involved in a case like this, and we felt tremendous compassion for the plaintiff and his injuries," Robert Tyson Jr. of Tyson & Mendes LLP, representing Schwab, said in a statement. "However, it is our duty to achieve justice for all, including small family-owned businesses and large corporate citizens."

Representatives for Romero did not respond to requests for comment on Friday.

The incident occurred while Romero and his family were in Mexico preparing for a day of horseback riding at the beach, according to court documents. While he and his younger brother were waiting to leave, they went next door to a neighbor's house to fool around with a lighter.

Romero held up a flower and lit it on fire but dropped it when it singed his fingers. The shirt "burst into flames," according to the complaint, causing his "charred skin" to "swell, bubble and blister."

Romero's mother had purchased the shirt from a Macy's in San Diego, according to court documents.

Macy's and Ralph Lauren settled with Romero over the summer for a total of \$862,000 in cash and indemnification rights under insurance policies, court documents said. Romero was seeking roughly \$10 million in damages from Schwab.

During trial, Romero's counsel led with graphic pictures of the burns and the scars they left years later, describing in detail the physical and psychological pain caused by the incident, Kristi Blackwell of Tyson & Mendes LLP told Law360.

On the basis of test results that were hotly disputed by Schwab, Romero said the shirt in question had not been 100 percent cotton but was more like 90 percent, with equal parts nylon and rayon making up the rest. That combination was far more flammable, Romero had argued.

The plaintiff also argued that while Schwab manufactured the garment according to normal government flammability standards, the company should have been required to meet the government's stricter standard for children's sleepwear.

In its verdict, the jury rejected both arguments.

"While plaintiff did sustain life-changing injuries, the jury saw the unreasonableness of this ask and ultimately agreed our product was safe for children," Tyson said, referring to which standard Schwab should have been forced to meet.

Blackwell said she partially credits the win to the fact that the defense team went out of its way to personalize Schwab's leadership team and explain their manufacturing process.

"We agreed with the plaintiff that these are horrific burn injuries, but what we told the jury is that they weren't due to any action or inaction on the part of Schwab defendants," Blackwell said.

Romero is represented by Carlie Marie Bouslaugh, Jessica Tora Sizemore, John H. Gomez and Russell A. Gold of Gomez Trial Attorneys, Maria Weitz, Priscilla Szeto and Raymond P. Boucher of Boucher LLP and John P. Fiske of Baron & Budd PC.

Schwab is represented by Mina Miserlis, Robert Tyson Jr., Janice Y. Walshok, Kristi Blackwell and Timothy Paul Irving of Tyson & Mendes LLP.

Macy's and Ralph Lauren are represented by Jeffrey M. Lenkov and Kenneth Shoji Kawabata of Manning & Kass Ellrod Ramirez Trester LLP.

The case is Romero et al. v. Macy's Inc. et al., case number 3:15-cv-00815, in the U.S. District Court for the Southern District of California.

--Editing by Catherine Sum.

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