

## NOT ALONE

*Martin K. Brigham*

After completing her late-night shift at the hospital, her morning chores, and homework for a nursing program, Anna had lunch with her two children and then went to her living room to sit for a few moments. Finally, she thought, a rare chance to put her feet up on a Sunday afternoon. Minutes later, she heard a crash in the kitchen, followed by the screams of her five-year-old son, Paul.

He came running out of the kitchen, tears streaming down his anguished face as he tried to rip off his soaked pants. Anna's 12-year-old daughter, Alice, followed close behind, pleading for her mother's forgiveness for not watching her brother more carefully.

As Anna flew to Paul, she glanced into the kitchen and saw that the stove had tipped over. A pot of hot water that had been left on the back burner after lunch was overturned on the floor. She rushed her son into the shower and doused him with cold water until paramedics arrived to take him to a hospital's burn unit. There, Paul began the long and painful process of medical treatment for third-degree burns to his groin and upper thighs, enduring excruciating pain as hospital staff debrided—vigorously scrubbed and scraped—the burned area.

At the hospital, Anna's daughter told her what had happened. While Alice was getting a drink out of the refrigerator, Paul opened the stove's oven door and stepped up onto it to see if there were any more boiled hot dogs in the pot. Seconds later, the stove tipped forward and over, causing the pot on the burner to slide off and dump its scalding contents onto Paul's lap.

The entire incident spanned only a few seconds, but its effects on Anna and her family were devastating and long-lasting. In addition to intense physical pain, Paul suffered lingering emotional and psychological injury. Anna and her daughter were overwhelmed with anxiety over Paul's condition and felt guilty, believing that they somehow should have been able to prevent his injuries.

Anna also worried about how she was going to pay for Paul's medical care and how she could keep her job while she devoted herself to helping Paul and her family recover. She felt alone, never imagining that others might have suffered similar ordeals, and she wondered whether she or her children had done something to bring on this awful fate.

While staying with Paul in the burn unit, Anna spoke with another family about her concerns about how she was going to pay Paul's mounting medical bills. Having heard of my firm's work on behalf of burn survivors, the family referred Anna to us. When we heard her story, we asked if we could go to her apartment and look at the stove. We wanted to understand why it had tipped over, especially given that Paul weighed only about a third of the stove's weight. I called the stove manufacturer to report the accident, and the risk/loss manager blurted out, "Oh no, not again!"

A review of medical literature and Consumer Product Safety Commission data revealed that hundreds of families in the United States have suffered the tragedy of a child being burned, crushed, or killed by a stove that tipped over. The paramedic who responded to Anna's call said that Paul was the seventh stove tip-over victim that he personally had treated in three years.

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In 1991, after resisting for years the implementation of any safety measures, appliance manufacturers started to include an “anti-tip bracket” with every stove. This small, slotted piece of metal is screwed into the floor at the back of the stove. One of the stove’s rear legs slides into the slot, anchoring it.

The anti-tip bracket was not the most effective way to prevent stove tip-overs—a stove redesign would have been better. But by choosing that safety measure, manufacturers hoped that they could transfer blame and liability for tip-over accidents to installers who—like the people who had installed Anna’s stove—either failed to put the brackets in place or did so incorrectly.

When we showed Anna the warning placard on the back of the stove, she was at first relieved; what had happened to Paul was not her fault. Then she became angry. Why had her landlord’s maintenance crew ignored the warning when they installed the stove just three months before the accident? And why hadn’t the manufacturer placed the warning on the front of the stove where she could see it? There were no acceptable answers to these questions.

My partner and I filed suit against the manufacturer and the landlord on behalf of Paul, Anna, and Alice, each a victim of the defendants’ negligence. Paul and Alice regularly came into our office, and my daughter took them to the local children’s museums as we met with Anna. On weekends, I would sometimes take the children to see a ball game.

We arranged counseling for Alice. We explained to her that other children had been hurt in the same way that Paul had, and that his accident was not her fault. We helped enroll Paul in a summer camp for young burn-injury survivors who we knew wouldn’t make fun of his scars by calling him “alligator legs,” as others had.

We put together a settlement brochure that included videotaped segments of Paul’s excruciatingly painful therapy, as well as admissions we elicited from the manufacturer’s employees during depositions about how long they had ignored stove tip-over accidents and how they were aware that landlords rarely installed the anti-tip brackets. The defendants’ cavalier attitude toward so many horrific accidents persuaded the court to let us seek punitive damages.

The case settled long before trial, providing the financial resources that the family desperately needed immediately and for the long term.

It is rewarding to know that our work has helped bring positive change in the lives of Anna and her children. Anna no longer worries about how to pay Paul’s medical bills, and she and the children have moved from their small apartment in a high-crime neighborhood to a new home with a large, grassy yard on a safe, tree-lined street.

Anna is especially pleased to know she has helped prevent other tip-over accidents from happening. As part of the settlement, the manufacturer added a warning to the front of its stoves, and the landlord anchored all the stoves in all its buildings. Anna and I continue to speak out about her case, lobbying government agencies to enforce the manufacturers’ and installers’ duty to take action to prevent tip-over injuries.

Although much in the family’s life has changed, I am also pleased that some things—especially with regard to the children—have remained the same. At Anna’s request, we never told the children they were part of a lawsuit. They now have trust funds and annuities supervised by corporate fiduciaries, but they do not know about them and will not until they are adults. The children still do chores to earn their modest weekly allowances. And I still take them out to ball games.

**Martin K. Brigham practices law with Raynes McCarty in Philadelphia. The names of the people in this article have been changed to protect the privacy of those involved.**