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And The Defense Wins

DRI members [Clayton Devin](#) and [Laurie Elza](#) of Macdonald Devin in Dallas, Texas (U.S. Kids Golf) and [Dennis Brown](#) of Holland & Hart in Denver, Colorado (FEMCO) successfully defended their respective clients in a product liability case in the United States District Court for the Eastern District of Texas. The surviving parents of a deceased twelve-year-old boy alleged that their son's death resulted from design and manufacturing defects in a steel golf club shaft. They sued U.S. Kids Golf, the designer and importer of the golf club, and FEMCO, the alleged manufacturer of the steel shaft.

The young man in question was an accomplished golfer and athlete who was playing in a family golf tournament around the Fourth of July weekend. He was playing in a three-some with his aunt and cousin when he hit his ball off a fairway and into a rough area of the course. He took a nine-iron steel shafted U.S. Kids Golf club and went to look for his ball while his aunt and cousin headed towards the green. His cousin recounted hearing a "snapping" sound shortly thereafter, followed by a cry for help. The young golfer was found lying in the rough between the two fairways with a puncture wound in his neck, and the two pieces of a broken golf club lying beside him. Forensic evidence determined that one of the fracture surfaces of the broken steel shaft had pierced the boy's neck and severed his subclavian artery. He died shortly thereafter.

The plaintiffs alleged that U.S. Kids Golf's attempts to design a club that was lighter and more flexible for young golfers had resulted in a shaft that was unable to withstand the club's foreseeable uses. In response, U.S. Kids Golf argued that the shaft design was based on a line of adult clubs that had been in the marketplace for many years, and that alternative designs offered by the plaintiffs were not feasible or necessary for a safe product. The plaintiffs also claimed that the shaft was made of inferior steel and that it broke because of a microscopic manufacturing defect during the shaft's fabrication. U.S. Kids Golf testified that they only used FEMCO shafts. FEMCO contended that steel used in the subject shaft was not the steel used by FEMCO, therefore, the shaft was not a FEMCO product. FEMCO also argued that the quality controls in their manufacturing process would have prevented defective steel from becoming a final product, further proof that the shaft was not a FEMCO product. Both defendants denied that the shaft contained a manufacturing defect.

After considering testimony offered by an accident reconstruction/human factors expert, competing metallurgists and product designers, the jury exonerated both defendants, finding that the golf club was not defective and that FEMCO did not

manufacture the steel shaft.

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