

Settlement ends pool toy case

Lawyers for a boy injured by a dive stick reach a deal with Wal-Mart and a Clearwater company.

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ST. PETERSBURG - After four weeks of trial, many hours of deliberations and some strange twists, a jury finally decided Friday night how much money Wal-Mart and a Clearwater pool company owe a boy injured by a water toy.

The stakes were high: The boy's lawyers had asked for as much as \$30-million in punitive damages, though a judge probably would have capped that figure at a much lower amount.

But in the last minutes before the verdict was to be read, lawyers for the businesses and the boy, Marcus Zunner, reached a settlement.

The amount is confidential.

Also unknown: The amount of money that jurors were prepared to force Wal-Mart and Florida Pool Products Inc. to pay the boy. The six-person jury left without comment.

Marcus was 3 years old in 2000 when he was playing in a shallow pool in his back yard and fell on a dive stick, a long, thin water toy made of rigid plastic that was manufactured by Florida Pool and sold by Wal-Mart.

The toy impaled his rectum, causing serious injuries. Though Marcus' lawyers say he will face medical problems for the rest of his life, lawyers for Wal-Mart and Florida Pool disputed that.

Marcus' lawyers tried to show that the companies did not heed a recall of the toys after other children suffered similar injuries.

Lawyers for the companies tried to show jurors that Marcus' mother was negligent when she bought the toy, which had a label on the package saying it was for children age 5 and older. They also said his grandparents weren't supervising the boy closely enough when Marcus, now 9, was injured.

After two days of deliberations, jurors returned late Thursday with an odd decision: Though they indicated on their verdict form that they wanted to award punitive damages, they gave no compensatory damages.

Judge Amy Williams told the jury Friday morning that compensatory damages had to be awarded if punitive damages were to be given. Marcus' lawyers objected to re-instructing the jury and asked for a mistrial, which Williams denied. They said they would appeal.

The jury took less than an hour to decide that Wal-Mart and Florida Pool had to pay only a combined \$15,000 in compensatory damages. Marcus' lawyers had asked for nearly \$15-million in compensatory damages, which are meant to cover things such as medical expenses.

Jurors decided that Marcus had incurred \$102,592 in damages when he was injured and said Wal-Mart bore only 5 percent of the blame, while Florida Pool bore just 10 percent of the blame.

That means Wal-Mart would have owed only about \$5,000 to Marcus, while Florida Pool would have owed about \$10,000.

Jurors assigned 40 percent of the blame for the accident to the boy's mother. They assigned 35 percent of the blame to the grandparents. They assigned 10 percent of the blame to the U.S. Consumer Product Safety Commission.

Jurors returned to court Friday afternoon for the second phase of the trial, in which they heard arguments about punitive damages.

Marcus' lawyers asked for \$18-million to \$30-million in punitive damages from Wal-Mart and \$480,000 from Florida Pool.

But because punitive awards are capped by the judge based on the amount of compensatory damages, Marcus wouldn't have gotten close to the millions he was seeking, his lawyers said.

Michael Keane, one of Marcus' lawyers, said the settlement was in the boy's best interest because it gives him money now rather than making him wait for appeals and a possible new trial.

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