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## PRACTICE AREAS

Workers Compensation

Personal Injury

Motor Vehicle Accidents

Wrongful Death

## Illinois court on whether gas company had notice of gas leak

5/26/2010

In *Turner v. Illinois Gas Company*, No. 2-08-0878, the plaintiffs brought suit after they were seriously injured when their rental home was destroyed by a natural gas explosion. The plaintiffs alleged that the defendant was liable for their injuries due to its negligent failure to inspect the gas piping in their home and warn them of any dangers posed by the defective condition of the pipes. The plaintiffs had never noticed or complained of a dangerous condition, but asserted that the defendant had constructive notice of the problem due to a service call made 17 months prior to the explosion.

The defendant brought a motion for summary judgment on the grounds that it owed the plaintiffs no duty to inspect for a defect or warn the plaintiffs of a defect.

The court first addressed the defendant's duty of care—that it owed a duty of care while the gas was under its control, but that duty was limited to when the gas was in the company's own pipes, not the consumer's pipes or fittings. However, the court also acknowledged an exception to that general rule:

“Where it appears that a gas company has knowledge that gas is escaping in a building occupied by one of its consumers, it becomes the duty of the gas company to shut off the gas supply until the necessary repairs have been made although the defective pipe or apparatus does not belong to the company and is not in its charge or custody.” *Adams*, 211 Ill.2d at 48, 284 Ill. Dec. 302, 809 N.E.2d 1248, quoting *Clare*, 356 Ill. at 243-44, 190 N.E. 278.

The plaintiffs conceded that the defendant had no actual notice of the defect, but argued that the defendant had constructive notice of the defective pipe. The Second District Appellate Court of Illinois rejected their argument, holding that the defendant was not liable for their injuries:

Defendant had neither actual nor constructive knowledge of the defect. Dray, defendant's technician, visited the residence only once, 17 months before the explosion, and he entered the basement only to relight the pilot lights. Jarl built the residence, Warren Plumbing Company installed the gas piping,



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plaintiffs lived there more than a year, and Stefanie noticed a gas smell on the night before the explosion but did not notify defendant. Defendant had no notice of the defective installation of the gas piping or of any gas leak, and defendant had no responsibility for creating the dangerous condition that caused the explosion.

Howard Ankin of Ankin Law Office LLC ([www.ankinlaw.com](http://www.ankinlaw.com)) specializes in [workers' compensation](#) and [personal injury law](#). Mr. Ankin can be reached at (312) 346-8780 and [howard@ankinlaw.com](mailto:howard@ankinlaw.com).