Filial Consortium Claims' Future After Conn. High Court Ruling

By **Glenn Coffin** (April 9, 2025)

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On Feb. 11, in a 4-1 decision in L.L. v. Newell Brands Inc., the Connecticut Supreme Court joined 13 states and the District of Columbia in soundly rejecting the cause of action for parental loss of filial consortium. The ruling is a significant win (for the moment) for the Connecticut defense bar, especially with the ever-increasing trend of high jury verdicts and settlement values.

However, it would not be surprising if the plaintiffs bar is hard at work seeking to establish a statute providing a basis for claims like this. The ability to seek such damages would have far-reaching consequences beyond high damages awards — potentially increasing insurance premiums and chilling carriers' willingness to risk going to trial in cases even where liability and damages defenses are present.

In L.L. v. Newell Brands, the plaintiffs, including an infant, her parents and aunt, brought an action to recover damages arising out of a tragic accident involving the infant. The plaintiffs claimed that the child was placed into a car seat by her mother, which was then placed on a counter adjacent to an electric stove.

Her mother stepped away and returned along with the infant plaintiff's aunt to find the car seat on fire. The infant was rescued from the seat by her aunt, but suffered severe injuries and burns.

The plaintiffs sued the car seat manufacturer, the retail seller of the car seat, the manufacturer of the electric stove and the seller of the electric stove, sounding in negligence, recklessness, violation of the Connecticut Product Liability Act and violations of the Connecticut Unfair Trade Practices Act.

Specifically, the plaintiffs claimed that the manufacturer and seller of the car seat: knew or should have known that the car seat was allegedly in defective, unsafe and dangerous condition; failed to adequately warn customers about the alleged risk of injury; and did not conduct proper safety testing.

The plaintiffs raised similar allegations against the manufacturer and seller of the electric stove, claiming that they failed to take steps to make safe products. The infant's mother and aunt alleged that they "lost the consortium, society, care and companionship of [their] daughter" because of the defendants' actions, which were both negligent and reckless.

The defendants moved to dismiss, in relevant part, on the grounds that filial consortium is not recognized as a cause of action in Connecticut. In granting in part and denying in part the defendants' motion, the U.S. District Court for the District of Connecticut certified multiple questions to the Connecticut Supreme Court, including: "Does Connecticut law recognize a parent's claim for loss of filial consortium in his or her child, who allegedly suffered severe, but non-fatal, injuries because of the defendants' tortious conduct?"

The concept of a claim for filial consortium is easy to grasp — can a parent whose child is injured claim damages for the loss of companionship, love, affection and society that the parent receives from the child? In the Newell Brands case, the plaintiffs' contention for the

appropriateness of these damages under Connecticut law was simple: Since the court recognized claims for loss of parental consortium, loss of filial consortium was a logical further link in the chain, which they claimed was supported by authority from other states.

The court was not persuaded — drawing stark distinctions between its jurisprudence applicable to parental loss of consortium, the proposed claim and the jurisdictions where this claim was available. It further highlighted that the injury suffered by a parent arising out of the injury of a child was an emotional one, rather than a loss of society on which claims of loss of consortium rest.

The court again recognized the reliance of minor children on their parents for basic care, nourishment, love and support. Failure of a parent to provide such support and care was a significant harm to the present and future well-being of the child.

The existing claim of loss of parental consortium is predicated on the extent a parent figure meets the needs of their children. Despite the plaintiffs' efforts at building an analogy between these two remedies, the court pointed to the fact that parents do not obey and are not supervised by their children, and are not dependent upon them for any type of support — pecuniary or emotional.

Prior to this case, Connecticut law already recognized loss of parental consortium, i.e., damages available to children of injured parents in personal injury matters, and the Connecticut Supreme Court's 2015 holding in Campos v. Coleman and its progeny clearly established the scope of such a claim. However, prior to the Newell Brands ruling, there was a clear split of authority at the Connecticut superior court level on the recognition of loss of filial consortium. The Newell Brands ruling was an obvious effort to resolve that split and expand the scope of damages available to plaintiffs in certain personal injury cases.

While the court recognized the extreme pain of a parent whose child sustains an injury, the court classified the plaintiffs' sought-after remedy as one of emotional distress and not one based in loss of society, and it drew clear distinctions between such claims. Moreover, contrary to the plaintiffs' contention of national support for such a remedy, the court noted that 13 states and the District of Columbia have expressly declined to adopt a cause of action for loss of filial consortium.

The court's holding in this instance effectively acts as a cap on certain categories of available claims and damages open to plaintiffs. It also allows defense lawyers in this jurisdiction an avenue to affirmatively push back against those claims to the extent they have already been raised in preexisting pleadings, and to insulate from such claims made in the near future. However, the issue is not totally settled.

Presently, and as articulated in the court's holding, many states that allow for these claims and damages do so on the basis of statutory foundation, which acts as a road map by which a court could instruct a jury on a finding of liability and the scope of an award of damages for loss of filial consortium. Specifically, of the 16 states that have recognized these claims, only seven do so on the basis of common law authority, and the remaining have adopted statutes as a road map.

Such a foundation and guiding framework of a preexisting statute simply does not yet exist in Connecticut. That is the next challenge for the plaintiffs bar — and it has a deep and resourceful bullpen for pressing and advocating for change.

It is unclear exactly how the Connecticut Legislature will react to such efforts. Should the

plaintiffs bar successfully lobby the Legislature for such a change, the change — and the degree of the change enacted, i.e., whether such a claim is limited to living plaintiffs or whether it will be extended to wrongful death claimants or other claims — will have a lasting and substantial impact on litigation of catastrophic injury claims involving children.

In the age of so-called nuclear verdicts, the availability of such emotionally charged claims and associated potential damages is yet another means by which sympathetic juries will be willing to render even higher verdicts against defendants. It could create even further concerns of skyrocketed defense costs, increased exposure and costs to insurers, and increases in higher-than-normal settlement values.

It could also expose insureds personally in the absence or insufficiency of coverage. While this holding is certainly a win in the ongoing struggle against high verdicts and their associated impact on defense costs and insurance rates, the matter is far from settled.

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Disclosure: Coffin coauthored an amicus brief on behalf of the Connecticut Defense Lawyers Association in support of the defendants' position in L.L. v. Newell Brands.