

**IN THE COURT OF APPEALS OF TENNESSEE
MIDDLE SECTION AT NASHVILLE**

WALTER A. DICKMAN,)	
)	
Plaintiff/Appellant,)	
)	Putnam Chancery
)	No. J-5751
VS.)	
)	Appeal No.
)	01A01-9605-CV-00210
HOMES OF LEGEND, INC. and)	
MEADOWS HOMES, INC.,)	
)	
Defendants/Appellees.)	

FILED

December 11, 1996

**Cecil W. Crowson
Appellate Court Clerk**

CONCURRING OPINION

I concur with the court's conclusion that granting the summary judgment in this case was inappropriate. Summary judgments should not be granted when doubt exists with regard to the conclusions to be drawn from the facts. *Byrd v. Hall*, 847 S.W.2d 208, 211 (Tenn. 1993); *Clifton v. Bass*, 908 S.W.2d 205, 208 (Tenn. Ct. App. 1995); *Mansfield v. Colonial Freight Sys.*, 862 S.W.2d 527, 530 (Tenn. Ct. App. 1993).

Walter Dickman alleges that the electric furnace he was repairing when he was electrocuted was dangerous and defective either because it was improperly wired or because the breakers associated with the furnace were mislabeled. The manufacturer and seller of the mobile home in which the heater had been installed asserted that Mr. Dickman was responsible for his own injuries because he failed to take adequate precautions to assure that the electric current to the heater was turned off before he began working on it.

The court has noted that the affidavits touching on these issues paint an incomplete and unsatisfactory picture of the cause of Mr. Dickman's injuries. The adequacy of Mr. Dickman's precautions before working on the heater depend upon the configuration of the wiring in the mobile home and the heater itself. None of the affidavits provide a complete and clear picture of the wiring, and thus

we cannot conclude based on these affidavits that Mr. Dickman was negligent when he began to repair the furnace after verifying that the homeowner had turned off the breaker labeled “heat.”

WILLIAM C. KOCH, JR., JUDGE