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Asbestos victims win case

Firm must pay more than \$1M

By John Caher

Staff writer

ALBANY — A federal court jury Monday evening awarded a total of \$1,167,159 to two area residents who suffered health problems because to their exposure to asbestos.

In two cases tried jointly before U.S. District Judge Con. G. Cholakis, the jury found Celotex Corp., one of the two companies on trial, liable for damages to the estate of Frank Gambacorta of Albany and to Charles William Hamilton of Hannacroix, Greene County.

The Gambacorta estate was awarded 994,326 and Hamilton and his wife, Elizabeth, were awarded \$172,833.

The jury said the other firm on trial, Carey Canada Inc., was not liable. Suits against several other firms were settled prior to trial for undisclosed amounts.

In the Gambacorta case, the widow, Mary Gambacorta, had sought \$4.5 million alleging that Gambacorta suffered from asbestosis and mesothelioma because he worked with asbestos between 1947 and 1987 as an insulation installer. Gambacorta died in 1987 at 60.

The jury found damages totaling \$2,840,933, but apportioned only 35 percent of the liability on the Celotex Corp.

5/1/90

TO: J. COXETER
K. MACON
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TROY HAS SEVERAL
ASBESTOSIS AND ONE
MESOTHELIOMA CASE
PENDING IN WORKERS
COMPENSATION. THERE
MAY BE MEDIA
INQUIRIES ETC. AS
A RESULT OF THIS
ARTICLE. WOULD
APPRECIATE COMMENTS
& SUGGESTIONS
RELATIVE TO MEDIA
ETC.

Craig

CC: J. BATEMAN
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G. GUBA
V. KEIM ✓
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In the Hamilton case, the panel computed damages totaling \$864,166 and set Celotex's responsibility at 20 percent.

Hamilton worked as an installer from 1945 to 1981, when he was disabled with asbestosis at 56.

The jury was charged with determining a number of complicated issues, beyond the obvious questions of whether the plaintiffs were injured and whether their injuries resulted because the defendants neglected to warn them of the hazards of asbestos exposure.

Cholakis also directed the panel to determine which of a total of nine companies were also negligent and to apportion liability appropriately. He also told the jury to determine whether Hamilton was at all responsible for his own injuries and, if so, to what extent.

Hamilton, although testimony indicated that he had at some point been warned to stop working with asbestos, was not found contributorily negligent by the four women and two men on the jury.

On Monday afternoon, the panel, which began deliberating Friday but were excused over the weekend, requested additional information on how damages should be awarded. A verdict returned around 5:30 p.m. was based solely on compensatory damages.

The jury did not assess punitive damages, which are designed to punish a wrongdoer and deter similar conduct.

In a similar case last summer, a federal jury in Albany awarded nearly \$3 million in compensatory damages to Raymond and Janet Walters of 155 Lincoln Ave. That judgment, against Celotex and Carey Canada, is currently under appeal.

State and federal courts have been bombarded with asbestos claims since the state Legislature in 1986 allowed victims of several hazardous substances — including asbestos — to sue for damages even though the statute of limitations had long since expired. The rationale for the Toxic Tort Act of 1986 was that victims of some products, such as asbestos, frequently don't exhibit symptoms for up to 20 years.

Cholakis currently has about 550 asbestos cases pending.