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Contracted Asbestos Disease Win \$115

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21 steelworkers who contracted asbestos disease win \$115 million

By STEVE OLAFSON
Houston Chronicle

ANGLETON — A Brazoria County jury awarded \$115.6 million to 21 steelworkers Thursday for asbestos disease they contracted at an Alabama steel mill.

Finding that The Carborundum Co. acted with gross negligence and malice, the jury assessed \$100 million in punitive damages against the company, which manufactured an asbestos-containing grinding wheel that was used to cut pipe at the U.S.

Steel plant in Birmingham.

Earlier in the day, jurors had agreed on a \$15.6 million judgment against the company for failing to warn the men of health dangers they faced when using the cutting tool.

The judgment was the nation's first asbestos-related jury award against a grinding-wheel manufacturer.

The attorney for Carborundum, contending that jurors were swayed by emotion, said he probably will appeal the decision.

The steelworkers, while appreciative of the verdict, said the judgment

won't compensate them for their declining health.

"This is great, but I've got to walk around with it in my lungs the rest of my life," said Jackie Davis, 47. "I feel like justice has been done, but money's no good to a dead man."

Some of the men said they hope that, should they succumb to asbestos disease, the judgment will help their families.

Extensive medical testimony from both sides was heard before state District Judge Ben Hardin during the

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four-week trial.

Medical experts for the steelworkers testified that 18 of the Alabama men suffer from asbestosis, an incurable disease in which lung tissue is scarred from the inhalation of airborne asbestos fibers. The other three plaintiffs have asbestosis symptoms, they said.

Medical testimony for the defense contended that the men suffered ailments unrelated to asbestos.

The steelworkers' attorney, Mark Lanier of Houston, said the lawsuit was tried in Texas because an Alabama law requires that asbestos lawsuits be filed within a year of exposure.

Symptoms of asbestosis may not become evident until 15 to 20 years after exposure, he said.

Jurors, after rendering their verdict, said they wanted to punish the company for continuing to market the cutting tool long after it became known that asbestos causes serious health problems.

"They deliberately let these men

work with things that were hazardous to their health, and I think that's just a shame," said juror Sue Mann, 47, of Chute, a labor union business representative.

The steelworkers did not use masks while wielding the cutting tool inches from their faces. Two of the original plaintiffs died of cancer before their lawsuit reached the courtroom, and those still living say they suffer shortness of breath and chronic coughing.

The claims of the two who died were settled out of court.

"We didn't know what we were using was harmful," said plaintiff William Nangher, 52. "Then they turned their backs on us and said, 'Hey, it's not our fault.'"

Lanier said it probably will be years before his clients receive any money because of probable appeals.

"They'll hope some of these fellows pass away before they have to pay anything," he said.

During the punitive phase of the trial, he asked the jury to consider awarding \$15.31 billion in damages — more than the tobacco industry's settlement with the state of Texas.

"I was dead serious. This is a company that sold their wheels off the back of American labor," Lanier said.

"As soon as the asbestos cases started filing, they disbanded all their American activities, moved overseas and tried to hide. At least the tobacco companies started admitting they did something wrong."

Carborundum moved its corporate headquarters to Paris and transferred its bonded abrasives division to Brazil in the 1980s, he said.

Carborundum's attorney, Jeff Marsh of Houston, said he was "absolutely astounded" that jurors assessed punitive damages, contending that they let sympathy for the steelworkers affect their decision.

"The plaintiffs were nice individuals and I think the emotional effect of their testimony overcame a lot of the medical issues," Marsh said.

Larry Kattner, one of two jurors to vote against assessing punitive damages and the only jury member who voted against assessing actual damages, said his fellow jurors discounted defense medical testimony that favored Carborundum.

"I still feel like I'm the only one that got it right," said Kattner, 43, an air traffic controller from Pearland.

Nevertheless, it took only about 30 minutes for 10 of the jurors to agree on the \$100 million punitive damage judgment.

The Facts

Covering Brazoria County — Where Texas Began

FRIDAY

BRAZORIA, TEXAS
FEBRUARY 20, 1998

Asbestos trial Jury awards mill workers \$115 million

PEGGY O'HARE

Facts

ANGLETON — A Brazoria county jury Thursday awarded \$15.6 million to a group of former Alabama steel mill workers exposed to an asbestos-containing grinding wheel.

The verdict was a stunning blow to The Carborundum Company, which manufactured the cutting wheel in question. But the emotional impact of the massive award was felt far and wide in the courtroom, moving to tears several of the mill workers who suffered serious medical problems after being exposed to the asbestos.

After concluding the company acted with gross negligence and malice, the jury awarded the plaintiffs a whopping \$100 million in punitive damages.

That does not include \$15.6 million in compensatory damages awarded for the 21 plaintiffs' future medical care, future physical impairment, future mental anguish and physical pain.

Of the \$100 million in punitive damages, each plaintiff was awarded an equal 4.76 percent share, or \$4.76 million.

The \$15.6 million in compensatory damages for future medical care and pain will be split differ-

Eighteen of the former mill workers diagnosed with asbestosis will receive \$850,000 each. Three other plaintiffs who appear to suffer symptoms of the illness, but whose X-rays did not confirm asbestosis, will receive \$100,000 each.

Ten of the 12 jurors agreed on the decision.

Attorneys for Carborundum said the company will appeal and ask for a new trial.

The heart of the case focused on whether the company knew the Black Magic Diamond Wheel contained asbestos and continued to use it anyway.

Attorneys for the 21 former steel mill workers said the men inhaled asbestos fibers shot into the air by the cutting wheel and fell victim to a "conspiracy of silence."

But the defense argued there was no evidence to indicate the grinding wheel was defective or that the men suffered from any asbestos-related diseases.

Plaintiff attorney W. Mark Lanier urged the jury to send a message to the world. He asked for punitive damages higher than the recent \$15.3 billion settlement between Texas and the tobacco industry.

"If a person kills someone, you can throw them in jail. You can't

Trial

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do that with a corporation," Lanier told the jury Thursday. "What fine do you (assess) for killing hundreds of thousands of people?"

"I have a serious problem with companies that have made their money off the sweat of people, and at the first sign of trouble, they go international and sell out America," Lanier said. "If you want to send a global message that is heard around the world ... you will change the way foreign companies do business with us. You have the ability to send a message all the way to France and all the way to Brazil."

Defense attorney Jeffrey H. Marsh asked that no punitive damages be assessed, noting the \$15.6 million awarded for future medical care and suffering was "far, far, far more than anybody ever could've expected."

The jury deliberated for only about 35 minutes before returning with its final

answer for punitive damages: \$100 million.

Several jurors wept openly after the decision was announced.

The jury wanted to get its point across "without being too vicious," one juror said later.

Jim Newby of Freeport said he and his peers decided against a \$1 billion judgment because such a stiff amount could take years to pay. "I think the reason we went the way we did — the company knew it was an unsafe product. They continued to use it after being told not to, knowing it would injure people," Newby said.

Lanier said Brazoria County should be proud of the jury's decision.

"This is the first time in America this company has been held responsible for thousands of deaths," Lanier said.

"The only precedent has been in two other trials where we've admitted in our case they were not out of those other trials. This jury recognized that."

Attorneys for Carborundum said the jury's decision was based on emotion and was totally unexpected. Marsh said there was no evidence any asbestos was ever inhaled, nor was there any evidence of injury or death resulting from such activity.

"The proof against The Carborundum Company was simply non-existent in terms of whether the product was defective," Marsh said.

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