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Asbestos in Schools: Greenville v. W.R. Grace

GREENVILLE, SC WINS \$8.4 MILLION VERDICT AGAINST W.R. GRACE

A federal jury in Greenville, South Carolina on Jan. 24 found W.R. Grace & Co. liable for selling an asbestos-containing fireproofing material to the City of Greenville in 1971 without disclosing that the material contained asbestos (City of Greenville and Greenville Water System v. W.R. Grace & Co., D SC, Greenville Div., No. 6:85-1693-14).

(Greenville's amended complaint and W.R. Grace's answer starts on P. 11,661; Greenville's motion for reconsideration of the admissibility of state-of-the-art evidence starts on P. 11,668; W.R. Grace's memorandum in support of admissibility of state-of-the-art evidence starts on P. 11,671.)

After deliberating three and one half hours, the jury ordered the company to pay \$6.4 million in actual damages and \$2 million in punitive damages. It was the first time a jury has returned a verdict for a plaintiff in an asbestos property damage case.

Edward J. Westbrook of Blatt & Fales in Charleston, SC, one of the attorneys for Greenville, called the verdict "the Borel (v. Fibreboard) of property damage litigation." He referred to the landmark case that applied strict liability to latent torts and established a foothold for insulators in asbestos-health suits against asbestos manufacturers.

Greenville and the Greenville Water System claimed that W.R. Grace was negligent and had breached an implied warranty when it sold an asbestos fireproofing product called Mono-Kote in 1971. U.S. District Judge G. Ross Anderson Jr. held that state-of-the-art was not a defense.

Mono-Kote was sprayed on steel beams of city hall when it was being constructed in 1971. The city alleged W.R. Grace sold the product while knowing that asbestos was hazardous and could cause lung disease. Only maintenance workers normally came into direct contact with the material.

In its opening statement, W.R. Grace told the jury that asbestos was needed in Mono-Kote because of its fireproofing quality. The company also contended that the danger of asbestos in fireproofing material was not known and could not have been known in 1971. W.R. Grace was represented by F. Barron Grier, III, of Columbia, SC, and Shepard M. Remis of Herrick & Smith in Boston.

The city introduced documents showing W.R. Grace representatives attended a lecture by Dr. Irving Selikoff in the 1960s at which he said asbestos in buildings would one day be a danger. Greenville was also represented by Terry Richardson of Blatt & Fales and by Daniel A. Speights of Hampton, SC.