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FYI: R. A. Stohr
D. Wood
E. T. Mollica

FROM: R. C. Isham

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Japanese Pair Held Liable in PCB Suit: \$25.3 MM Damages

Kanegafuchi Chemical Industry Company has been found liable in a polychlorinated biphenyls poisoning suit brought by 729 patients or their survivors in Western Japan. The Fukuoka District Court has ordered Kanegafuchi Chemical and co-defendant Kanemi Warehouse Company to pay \$25.3 million in damages.

The compensation ranges from about \$4,000 to about \$70,000 per plaintiff depending on severity of symptoms. Plaintiffs have asked a total of \$18.2 million in damages. The Japanese government and the City of Kitakyushu, also defendants in the suit, were not held liable.

Kanemi Warehouse, an edible oil producer, was linked in 1968 to an outbreak earlier that year in Japan of "Yusho disease", a sometimes fatal syndrome involving pustular skin eruptions, pigmentation changes, anemia and fetal disturbances. Kyushu University researchers traced the outbreak back to PCB-contaminated rice-bran oil processed by Kanemi Warehouse.

Kanegafuchi Chemical supplied Kanemi with PCB, which was used as a heat exchange medium. The cooking oil contamination occurred when PCB leaked into the oil through piping cracks during processing.

Kanegafuchi Chemical and Kanemi were found negligent in an earlier PCB suit in the same court (CMR 10/17/77 pg. 4). That decision awarded forty-six patients a total of \$2.6 million. As in the suit just concluded, Kanegafuchi Chemical had argued that it was not liable for the consequences of malfunctioning equipment in a customer's plant.

Kanemi argued that Kanegafuchi Chemical failed to inform users properly about PCB toxicity. The court agreed with the Kanemi assertion in both rulings, and Kanegafuchi Chemical has appealed both to the Fukuoka High Court. PCB production, meanwhile, has been banned in Japan since 1972.

The suit just decided also named as defendants the Japanese government and Kitakyushu City, where Kanemi Warehouse is located, since these authorities are responsible for the safety of processed foods.

But Fukuoka District Court held that the relevant laws leave to government discretion the nature of safety checks to be carried out, and that the authorities did not ignore their responsibility unreasonably.

In addition to two suits, litigation brought by 155 other PCB poisoning patients is still pending in Fukuoka District Court, while another civil suit is pending in Hiroshima prefecture. (More than 1600 Japanese have received government designation as PCB victims.)

The Fukuoka District Court has also completed hearings in a criminal case brought against officers of Kanemi Warehouse Company on the complaint of a group of PCB patients in 1968. A ruling is expected later this month.

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