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Punitive Damages

CA JURY AWARDS TWO WORKERS AND WIDOW \$2.6 MILLION FROM FIBREBOARD

An Oakland, California jury has awarded \$2.6 million in damages, including \$1.8 million in punitive damages, from Fibreboard Corp. to two insulation workers and the widow of a third. All three workers suffered from asbestosis.

If it stands, the award will be the largest in a California asbestos case and the first punitive damages award ever against Fibreboard. Attorneys for the company said they would appeal.

An Alameda County Superior Court jury reached the verdict Aug. 2 after deliberating 10 hours over two and one-half days, following a six-week trial before Judge John Cooper.

All three workers worked for Fibreboard, but were allowed to sue the company under a theory of successor liability for injuries they suffered prior to 1947 when they worked at the Emeryville Plant Rubber and Asbestos Works factory which was purchased by Fibreboard subsidiary.

Each of the three plaintiffs will receive \$600,000 in punitive damages. In addition, plaintiff Wilson Pitts, 56, will receive \$500,000, Archie Miller, 69, will receive \$302,151, and Grace Bell, whose husband, Horace, died of asbestos-related heart and lung failure four years ago at age 57, will receive \$67,654.

According to testimony, workers at the insulation factory routinely were exposed to such huge volumes of asbestos dust that they would have to stop to clear their eyes, mouths and ears. Workers were provided cheesecloth face masks, but testified they never were informed that inhaling asbestos fibers could cause respiratory ailments.

In videotaped testimony, the plant's former medical director, Dr. Henry Perlmutter, said he had studied asbestosis when he was in medical school during the 1930s. He said he did not warn the employees or investigate the working conditions.

Fibreboard attorneys said the company did not know their product was hazardous until the late 1960s or early 1970s and that it acted quickly at that point to protect workers once the danger was known.

The jury was asked to decide the case on theories of landowner liability, corporate medical program and deceit. Settlement talks never reached the bargaining stage.

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The plaintiffs were represented by Steven Kazan of Oakland. Fibre-board was represented by George Benetatos and Nanette Hudson of the Law Offices of Ronald E. Hothem of San Francisco.

Philadelphia Non-Jury Trial

DEFENSE VERDICT RETURNED IN CLAIM BY HEART VICTIM

Judge Julian F. King of Philadelphia Common Pleas Court dismissed a wrongful death claim July 25 after hearing nine days of testimony over whether the victim's heart condition was caused by his asbestos exposure (Zizak v. Johns Manville, et al., No. 7901-4051 [131] Case No. 43).

Attorneys for Anthony Zizak, a shipyard worker, alleged he died of cor pulmonale that resulted from his asbestos exposure. The defendants contended he died of a heart attack.

Dr. Gerrit Schepers, the sole medical expert for the plaintiffs, was on the stand five days--three of them for testimony under the questioning of Neil Peterson of Greitzer & Locks, representing Zizak, and two days under cross examination by Edward David of Curran, Mylotte, David & Fitzpatrick, representing Pittsburgh Corning and conducting the cross examination for all defendants.

Four more days were taken up by testimony and cross examination of two defense experts, Dr. Leonard Berkowitz, a pulmonary specialist, and Dr. John Helwig, a cardiologist, both from Philadelphia. Judge King ruled for the defendants, finding that the manner of Zizak's sudden death was contrary to the slowly debilitating process commonly associated with cor pulmonale.

In addition to Pittsburgh Corning, defendants included Celotex Corp., Eagle-Picher, Armstrong World Industries, Nicolet, 48-Insulations, H.K. Porter, Keene Corp., Raymark and Fibreboard.

Philadelphia Common Pleas Court has recessed for the month of August, giving litigants the first break in a marathon non-jury trial program that saw 117 cases called for trial since January (See related story, P. 6,984).
