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#98 Plaintiff with meso sued makers of asbestos-containing products

Case Type: Asbestos — Products Liability — Asbestos — Products Liability — Failure to Warn

Case: Dennis Woodard v. Alfa Laval Inc., Los Angeles Co., Calif., Super. Ct., BC 387774, 2/2/2009

Plaintiffs' Attorney: Kevin Loew and Gary M. Paul, Waters, Kraus & Paul, El Segundo, Calif.

Defense Attorney: Geoffrey M. Davis, K&L Gates LLP, Los Angeles (Crane Co.)

Jury verdict: \$16,925,000

FACTS & ALLEGATIONS In January 2008, plaintiff Dennis Woodard, 66, a city manager in Hewitt [Texas], was diagnosed with malignant, pleural mesothelioma.

Woodard sued several manufacturers of asbestos-containing products, alleging products liability, negligence and failure to warn. All the defendants were dismissed or settled out prior to the trial with the exception of Crane Co., Stamford, Conn., and Sepco Corp., Birmingham, Ala.

Plaintiff's counsel alleged that while Woodard worked for the U.S. Navy from 1961 to 1965, he spent eight months aboard the USS Rogers as a machinist's mate and a fireman apprentice electrician and then spent 33 months on the USS Salisbury Sound, working as an electrician's mate.

Woodard asserted that, during those 40-plus months, he worked in engine rooms and boiler rooms, making routine repairs, and that he was exposed to high-temperature components, including valves, steam lines, pumps and turbines. According to plaintiffs' counsel, Woodard's repair work consisted of removing, replacing and reinstalling parts that had asbestos-containing components and insulation. The lawyers asserted that Woodard didn't have any protective gear to shield him from the asbestos products he had to handle, and that those products included gaskets manufactured by Sepco and valves manufactured by Crane Co.

Plaintiffs' counsel contended that, while Woodard was performing work for the U.S. Navy, the two defendants were liable for the defects in their products, negligent conduct and failing to warn Woodard of the dangers of the asbestos associated with their products.

Noting that it never supplied the U.S. Navy with products during the relevant time period, Sepco denied that Woodard ever came in contact with its gaskets, asserting that, in the 1960s, there were multiple companies named Sepco which made asbestos-containing gaskets so it couldn't be determined if Woodard ever used Sepco's gaskets while in the Navy.

Crane Co. argued that nobody was informed about asbestos gaskets and packing in the relevant time periods, that Woodard's employer, the U.S. Navy, was a sophisticated user, which knew the dangers of asbestos, and that the U.S. Navy did not heed any warnings about asbestos products. Based on that contention, Crane Co. said that it couldn't be held liable for failing to warn Woodard about the dangers of using its gaskets, packing and insulation. Further, counsel argued that asbestos gaskets and packing do not release harmful levels of asbestos dust, and that it hasn't been scientifically proven that the chrysotile asbestos in Crane Co.'s products caused mesothelioma.

INJURIES/DAMAGES *loss of consortium; mesothelioma*

Due to the swift deterioration brought on by the illness, Woodard's action was preferentially set by the court. Plaintiffs' counsel argued that Woodard, who led an active life, was forced to retire just 90 days after being diagnosed with terminal mesothelioma. Counsel added that, since his retirement, Woodard underwent two radical surgeries, which included the removal of one of his lungs and his diaphragm, leaving him in constant pain.

The parties stipulated to \$1,925,000 in past and future economic losses.

Counsel also asserted that Woodard's life expectancy was significantly reduced, seeking \$2 per minute over 17 years for Woodard's pain and suffering, plus \$1.75 per minute for his spouse's loss of consortium.

Counsel asserted that Crane Co. was liable for 40 percent of the Woodards' damages.

The defense argued that their products didn't cause Woodard's mesothelioma, and therefore the two defendants couldn't be held liable for his damages.

RESULT The jury found that Sepco wasn't liable for negligence, that its product did not have a defective design, and that the company was not liable for a failure to warn.

Meanwhile, the jury found that Crane Co. was not liable for strict liability claims, but that the company was 0.5 percent liable for Woodard's damages, awarding Woodard \$16,925,000.

Thus, Woodard's total recovery from Crane Co. will be \$75,000 for noneconomic damages, and \$1,925,000 in economic damages, less a yet-to-be determined offset for damages already paid via other settlements. The expected judgment was estimated at \$1.65 million.

POST-TRIAL A JNOV motion by Crane was granted and judgment in favor of Crane was entered, eliminating the verdict. The plaintiff is appealing.

Editor's Note This report is based on information from plaintiff's counsel and defense counsel.