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Top Defense Verdicts

Chevron Wins Toxic-Tort Case With Support From Steptoe

SANTA CRUZ — In February 2007, a Santa Cruz County Superior Court jury favored defendant Chevron U.S.A. Inc. over the claims of four bellwether plaintiffs on toxic-tort charges. Two hundred plaintiffs claimed the company was liable for negligence by exposing them, primarily in utero, to lead and inorganic arsenic resulting in birth defects including cardiac and neurological injuries.

The toxins were found in pesticides manufactured by California Spray Chemical Co. between 1909 and 1929 in Watsonville.

In 2003, the plaintiffs filed suit against Chevron alleging nuisance, trespass, negligent misrepresentation, fraud, fraudulent concealment, ultrahazardous liability and negligence. The plaintiffs comprised residents and property and business owners who lived and worked near the now-defunct pesticide manufacturing operation.

Not until 1996 did the owner of the site discover significant quantities of lead and arsenic in the soil. *Acevedo v. California Spray-Chemical Co.*

Standard Oil of California (later to become Chevron U.S.A. Inc.) bought the facility in 1931. Both parties disputed whether Chevron should share blame for the exposure claims with the former owner, California Spray Chemical. Santa Cruz County Superior Court Judge Robert B. Attack found that Chevron was liable for negligence but ruled that the issue of causation must go to trial.

Before trial, Chevron's environmental



Julianne Backmann / for the Daily Journal

"This case proves again that juries can understand — and care about — complex scientific evidence, and overcome natural sympathies to reach the right result under the law," said Lawrence P. Riff of Steptoe & Johnson who represented Chevron

engineering consultant, CH2M Hill, settled out of the case for \$250,000.

Three of the plaintiffs claimed pesticide exposure caused their birth defects. One of the plaintiffs, Edgar Guillen, said that he was exposed to the chemicals as an adult. He had lived near the facility from 1996 to 2003, previously living in Mexico City. Attack, the trial judge, dismissed his claim.

Counsel for the three remaining plaintiffs — Ruben Valverde, Bridgette Guerrero and Susan Reyes — requested \$20 million in compensatory damages. Pretrial, Chevron had offered Valverde, Guerrero and Reyes \$2,001 under California Code of Civil Procedure 998. On Feb. 16, the Santa Cruz jury rejected awarding damages to the trio, finding Chevron was not liable for causation.

To date, neither party has filed a motion for a new trial or a notice of appeal.

Lawrence P. Riff of Steptoe & Johnson who represented Chevron said, "This case proves again that juries can understand — and care about — complex scientific evidence, and overcome natural sympathies to reach the right result under the law."

Chevron's other lawyers were Thomas H. Clarke Jr. and Terry P. Anastassiou of Ropers, Majeski, Kohn & Bentley. W. Keith Lemieux of Lemieux & O'Neil represented the public water companies in the case.

Mary Hulett of Ragsdale Liggett, Paul R. Fine of Daniels Fine Israel & Schonbuch, Michael K. Stagg and William K. Koska of Waller, Lansden Dortch & Davis, and Gary C. Ottoson of Bacalski, Koska & Ottoson represented most of the Public Utility Commission-regulated water companies in the case.

Lead plaintiffs' attorney was Thomas H. Clarke Jr. of Ropers Majeski Kohn & Bentley.

— AMITY BACON

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