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VERDICTS, SETTLEMENTS & TACTICS

Box v. A.W. Chesterton, Inc.

Case No. 3477, July Term 2001

October 20, 2003

TOPIC: Products Liability

TITLE: \$ 6.6 Million Verdict In Asbestos Suit

RESULT: \$ 6.6 million jury verdict, consisting of \$ 4.2 million to the estate for the decedent's pain and suffering; and \$ 2.4 million for loss of consortium. The majority of the defendants settled for undisclosed amounts prior to the verdict. At the time of the verdict, only A.W. Chesterton and Asten, Inc., remained in the case. A.W. Chesterton settled shortly after the verdict, and Asten, Inc., settled after three days of liability testimony. Both settlements were for undisclosed amounts.

INJURY: Mesothelioma, resulting in death.

STATE: Pennsylvania

PLAINTIFF ATTORNEY: John M. DiDonato of Brookman, Rosenberg, Brown & Sandler, Philadelphia, Pa.

DEFENDANT ATTORNEY: Ron Collins (for Asten, Inc.); Doug Eisler (for A.W. Chesterton, Inc.)

SUMMARY: Larry Box, DOB 09/24/39, was employed as a research chemist at the Scott Paper plant in Chester, Pennsylvania, from 1965 to 1995. In that capacity, he was occupationally exposed to asbestos materials used at the paper plant, including but not limited to dryer felts, packing and valve material, pipe-covering and gaskets. Mr. Box retired from Scott paper in 1995 at the age of 54. He was essentially healthy until February of 1999, when he started to experience shortness of breath. After appropriate medical testing, a diagnosis of mesothelioma was made. After 17 months of suffering, Mr. Box expired on July 27, 2000.

The case was reverse bifurcated with damages litigated in the first phase, and liability in the second phase. During the damage phase, the plaintiffs relied on the testimony of Dr. Daniel Dupont, a pulmonary specialist, who opined that Mr. Box's mesothelioma was caused by his inhalation of asbestos fiber. He testified that every exposure to asbestos constituted a substantial contributing factor in causing the disease to develop. Plaintiff presented the testimony of co-workers to establish the history of asbestos exposure at the Scott Paper plant. Mrs. Box testified regarding her husband's pain and suffering and consortium claim.

The defense presented no expert witnesses during the first phase of the case. In the second phase of the case, the defendants raised the issues of product identification, the "chrysotile" defense, and the "dust" defense.

PLAINTIFF EXPERT WITNESSES: Dr. Daniel Dupont, pulmonary specialist, Ridley Park, Pa.

COURT: Box v. A.W. Chesterton, Inc., July Term 2001, No. 3477 (Philadelphia Cty. Ct. of Common Pleas, Pennsylvania Oct. 20, 2003)