



# VERDICTSEARCH CALIFORNIA

Vol. 3 Issue 44

November 15, 2004

## VERDICT *of the* WEEK

### Products Liability

**Worker exposed to asbestos in gaskets and joint compound**

**\$36,688,496**  
**(net \$28,408,496)**

*Treggett v. Garlock Sealing*

Los Angeles Co., Calif., Super. Ct.

**Plaintiffs' Attorneys** Ron Eddins, Michael Armitage and Saar Swartzon, Water & Kraus, Long Beach and Dallas

**Defense Attorneys** David Glaspy, Glaspy & Glaspy, Walnut Creek; Robert Baronian, Baronian Law Firm, Pasadena; Stephen Foley and Peter Langbord, Foley & Mansfield, Walnut Creek

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Asked  
&  
Answered

*Should election laws  
and procedures  
be nationalized?*

Answers on page 37



# VERDICTSEARCH

## CALIFORNIA

LOS ANGELES COUNTY

### VERDICT *of the* WEEK

#### PRODUCTS LIABILITY

Asbestos — Failure to Warn — Design Defect — Workplace

## Worker exposed to asbestos in gaskets and joint compound

**VERDICT (P)**     **\$36,688,496**  
**NET**                **\$28,408,496**

**CASE**             Robert Treggett and Linda Treggett v.  
 Garlock Sealing Technologies and  
 Kelly-Moore Paint Company, Inc.,  
 No. BC307058

**COURT**           Superior Court of Los Angeles County,  
 Central, CA

**JUDGE**           William F. Fahey  
**DATE**              10/20/2004

**PLAINTIFF**  
**ATTORNEY(S)**    **Ron C. Eddins** (lead), Waters & Kraus,  
 Dallas, TX  
**Michael L. Armitage**, Waters & Kraus,  
 Long Beach, CA  
**Saar Swartzon**, Waters & Kraus,  
 Long Beach, CA

**DEFENSE**  
**ATTORNEY(S)**    **David M. Glaspy** (lead), Glaspy & Glaspy,  
 Walnut Creek, CA (Garlock Sealing  
 Technologies)  
**Robert H. Baronian**, Baronian Law Firm,  
 Pasadena, CA (Garlock Sealing  
 Technologies)  
**Stephen J. Foley**, Foley & Mansfield, Walnut  
 Creek, CA (Kelly-Moore Paint Company Inc.)  
**Peter B. Langbord**, Foley & Mansfield,  
 Walnut Creek, CA (Kelly-Moore Paint  
 Company Inc.)

**FACTS & ALLEGATIONS** From 1965 to 1972, plaintiff Robert Treggett, now 60, was a nuclear-trained machinist mate, first class

(E-6) aboard the USS Marshall (SSB(N)-611), a nuclear submarine. While working onboard the USS Marshall, his primary duties were in overhaul, repair and maintenance of both the primary and secondary nuclear propulsion plant equipment. Treggett claimed that these duties exposed him to enormous amounts of asbestos dust. He also claimed that he was exposed to various asbestos-containing products including gaskets manufactured by Garlock Sealing Technologies that were used on steam lines and inside valves, pumps and other equipment.

Additionally, for six months between 1975 and 1976, Treggett performed home remodeling work on his father's home in Tarzana and, occasionally, he worked with joint compound products during the home projects. In doing so, he claimed that he was exposed to asbestos while mixing and sanding Kelly-Moore Paint Company's asbestos-containing "Paco Quik-Set" joint compound. (Treggett was exposed approximately six times over a six-month period, according to defendant Kelly-Moore's counsel).

On Oct. 1, 2003, Treggett was diagnosed with malignant pleural mesothelioma, a rare form of cancer in which malignant cells are found in the mesothelium, a protective sac that covers most of the body's internal organs. It is caused by exposure to asbestos.

Treggett and his wife, Linda, sued several companies that manufactured or sold asbestos-utilizing products including Garlock Sealing Technologies, Palmyra, N.Y., and Kelly-Moore Paint Company Inc., San Carlos, alleging strict products liability (failure to warn and design defect) and negligence. All of the defendants, except Garlock and Kelly-Moore, either settled with the Treggetts before trial or were dismissed.

The Treggetts contended that the defendants' products contained unreasonable or dangerous amounts of asbestos. They also maintained that the defendants negligently failed to warn or protect those working with their products about the dangers of asbestos.

The defendants denied the plaintiffs' allegations and contended that their products did not contain asbestos. If there was

asbestos in their products, it was chrysotile asbestos, and not amphibole asbestos, which was the cause of Treggett's cancer. The defendants also maintained that Treggett was not exposed by their products. Even if he was, his exposure was minimal and he was exposed to larger doses of asbestos from other companies' products. According to Kelly-Moore, Treggett's expert witness, Arnold Brody, opined that Treggett's exposure to Kelly-Moore products was less than one percent of the total amount of exposures to asbestos and asbestos-containing products.

#### **INJURIES/DAMAGES** *loss of consortium; mesothelioma*

After being diagnosed with mesothelioma, Treggett, a resident of Washington, received four courses of chemotherapy in late 2003-early 2004. In February 2004, he underwent radical surgery to remove his right lung, pleura, pericardium and diaphragm. Since the surgery, he has lost approximately 50 pounds and has sustained severe burns on and around the area of his surgical scar from his post-surgical radiation treatments.

Immediately prior to his diagnosis, Treggett worked at Crista Ministries as a maintenance supervisor since 1994. Additionally, he was attending religious study classes at Northwest College in Kirkland, Wash., for a degree in ministry leadership. Due to his cancer, Treggett claimed that he can no longer work or study. He claimed past medical expenses of \$200,000, future medical expenses of \$150,000 and damages for future loss of earnings/household services.

Linda Treggett filed a claim for loss of consortium.

**RESULT** After finding Garlock 40% liable, Kelly-Moore 14% liable and other non-parties 46% liable (including 39% to the U.S. Navy), the jury awarded \$688,496 in economic damages and \$12 million in noneconomic damages to Robert Treggett. The jury also awarded \$6 million in noneconomic damages to Linda Treggett. The jury then awarded the Treggetts punitive damages of \$18 million, which created a total verdict of \$36,688,496. The defendants are each severally liable for Robert Treggett's economic damages. Under Prop. 51, Garlock Sealing is responsible for 40% of the Treggetts' noneconomic damages, or \$7.2 million, and Kelly-Moore is responsible for 14% of the Treggetts' noneconomic damages, or \$2.52 million. Garlock Sealing was assessed \$15 million in punitive damages and Kelly-Moore was assessed \$3 million in punitive damages.

Peter Langbord, counsel for defendant Kelly-Moore Paint Co. Inc., reported that Judge Fahey would not allow one of his witnesses, a corporate representative of Kelly-Moore, to testify because he did not have personal knowledge of events that occurred approximately 30 to 40 years ago.

Robert Baronian, counsel for defendant Garlock Sealing Technologies, stated to the Associated Press that "We believe it's a runaway jury" and that "the jury disregarded all scientific studies, none of them showing a connection between gasket exposure and disease."

**LINDA TREGGETT** \$6,000,000 noneconomic damages

**ROBERT TREGGETT** \$18,000,000 punitive damages  
\$688,496 economic damages  
\$12,000,000 noneconomic damages  
\$30,688,496

**TRIAL DETAILS** Trial Length: 6 weeks  
Jury Deliberations: 5 days  
Jury Poll: Various

#### **PLAINTIFF EXPERT(S)**

**Arnold R. Brody, Ph.D.**, cell biology,  
New Orleans, LA  
**Barry R. Horn, M.D.**, pulmonology,  
Berkeley, CA  
**Samuel P. Hammar, M.D.**, pathology,  
Bremerton, WA  
**Eric Vallieres, M.D.**, thoracic surgery,  
Seattle, WA  
**John Philip Templin, CIH**, industrial  
hygiene, San Francisco, CA  
**William E. Longo, Ph.D.**, materials science,  
Suwanee, GA  
**David T. Fractor, PhD**, economics,  
Pasadena, CA  
**Robert Neff, CPA**, accounting,  
Pasadena, CA

#### **DEFENSE EXPERT(S)**

**Andrew Churg, M.D.**, pathology,  
Vancouver, British Columbia  
**Donna Ringo, CIH**, industrial hygiene,  
Louisville, KY  
**Carl Mangold, CIH**, industrial hygiene,  
Seattle, WA  
**William Hughson, M.D.**, occupational  
medicine, San Diego, CA  
**Robert Sawyer, M.D.**, occupational  
medicine, Guilford, CT  
**James Delaney**, maritime/admiralty,  
Honolulu, HI (Naval expert)

**POST-TRIAL** Both Garlock Sealing Technologies and Kelly-Moore Paint Co. plan to appeal the verdict.

—Randy Stewart