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Jury Verdicts & Settlements

Woman diagnosed with cancer wins asbestos claim against Ford

Case: Lynda Daly and Michael Daly, her husband, v. Ford Motor Company, and Pneumo Abex, LLC, as successor in interest of Pneumo Abex Corp.

Case no.: 07-19211

Description: Negligence and strict liability

Filing date: Aug. 8, 2007

Trial dates: Oct. 13-Nov. 3, 2008

Jury decision: \$2.5 million

Judge: Broward Circuit Judge Robert Rosenberg

Plaintiff attorneys: Juan Bauta and Case Dam, Ferraro Law Firm, Miami

Defense attorneys: Henry Salas, Cole Scott & Kissane, Miami; Ronald F. Lopez, Thelen, San Francisco; Tom Radcliffe, DeHay & Elliston, Baltimore; Harold Morlan II, Akerman Senterfitt, Orlando

Details: Lynda Daly was diagnosed in May 2007 with mesothelioma, a cancer that attacks the lining of the lungs that is often caused by asbestos exposure. Daly started chemotherapy after getting other opinions from doctors in Boston and Milwaukee. Daly, 57, began her treatment in Milwaukee, where she has family, before returning for treatment in Coral Springs.

Asbestos, which was believed to have caused her disease, was used in automotive brakes. During her childhood, Daly often worked on used cars with her family. She also worked for two years in 1978 and 1987 as a warranty clerk at two Ford dealerships. Her desk was in the center of the service bay where mechanics worked on cars, Bauta said. Her husband, Michael, drove trucks in the military, and she could have exposed through him.

Daly sued more than 30 companies that could have exposed her to asbestos.

Bauta said some 10 of the companies settled confidentially, four were dismissed on



A.M. HOLT

Juan Bauta and Case Dam of Ferraro Law Firm in Miami helped a woman who suffered from asbestos exposure win a \$2.5 million award.

summary judgment, and a few others were dismissed by the plaintiffs.

Plaintiff case: Mesothelioma is a signature disease of asbestos exposure, Bauta said. He claimed Ford and Abex failed to warn Daly of the dangers of asbestos, and they chose to use asbestos instead of other materials because it was cheaper.

Defense case: Lopez, Radcliffe and Morlan did not return calls for comment by deadline. Salas could not be reached for comment.

Bauta said the defense rejected the mesothelioma diagnosis, claiming she had kidney cancer that spread to her lungs.

Outcome: After deliberating for six hours, the jury found negligence by Ford and Pneumo Abex, and the companies made defective products that damaged Lynda and Michael Daly. The jury found the Dalys 30 percent

responsible, discounting the award by that rate.

Lynda was awarded \$2.1 million for pain, suffering and medical expenses. Michael won \$1.5 million for loss of consortium. Ford was found 30 percent liable and Pneumo Abex 40 percent.

Comments: "We always alleged that Ford and Abex knew that putting asbestos in these products was extremely dangerous," Bauta said. "Not only did they fail to tell them [asbestos] was in the product, but they failed to warn them that if dust got up into the air, that it posed significant danger."

Post verdict: Bauta said he plans to file a motion to reconsider the issue of comparative negligence. He said he believes the defendants will appeal the verdict. ■

— Jordana Mishory