

The Herald

July 11, 2003

DuPont retold to pay a family

An eyeless child, a \$4M award

BY CHRISTINA HOAG
choag@herald.com

In a huge setback for the chemical giant DuPont, the Florida Supreme Court reinstated on Thursday a \$4 million jury award to a former South Dade family that blames a controversial fungicide for their son being born without eyes.

The court overturned a 1999 appellate court decision that had vacated the judgment against the Wilmington, Del.-based manufacturer of Benlate and against Pine Island Farms, a Homestead "u-pick" farm that sprayed chemical on crops as the seven-month-pregnant woman walked in the area.

The 60-page ruling represents a major victory for dozens of families across the United States and Britain that allege that Benlate is responsible for their children's having been born eyeless. Benlate has also been linked to extensive crop and plant damage in South Dade and elsewhere in the country.

Since 1991, some 600 cases have been filed over the chemical. DuPont maintains that the fungicide is safe for both plants and humans but has nonetheless paid out more than \$1 billion in settlements and jury awards.

The former South Dade couple, Juan and Donna Castillo,

▶ PLEASE SEE BENLATE, 2C

\$4M award against DuPont reinstated

▶ BENLATE, FROM 1C

were pioneers in the slew of Benlate cases, taking DuPont and Pine Island to court in 1993, four years after their son, John, was born with the defect known as microphthalmia. In 1996, the Castillos became the first family in the United States to win an award against DuPont.

Three years later, however, the Third District Court of Appeals ruled inadmissible key

expert testimony offered on behalf of the family during the 1996 jury trial. The scientific methodology, the court decided, was flawed.

In Thursday's ruling, though, the state Supreme Court said it was the appellate decision that was wrong. The court found the methodology cited by the experts to be in line with scientists' generally accepted guidelines.

"We quash the Third District's decision and hold that

the trial court properly admitted the Castillos' experts' testimony," the opinion states.

Moreover, the court found, "there was enough direct evidence that Mrs. Castillo was exposed to Benlate to support the jury's verdict against DuPont."

In a statement, DuPont said it was "disappointed" by the decision and noted that the same expert-witness testimony had been ruled inadmissible in a similar West Virginia case in

A chemical, an eyeless child and pending suits.

March 2002.

"DuPont knows of no credible science to support these claims and will continue to defend the product in ongoing Delaware litigation," the statement said.

The company did not say whether it would pursue the Castillo case further.

The Castillos, who have since moved to the Boston area, where their son attends a school for the blind, could not be reached for comment.

Their attorney, James Ferraro of Miami, who is handling some 20 similar lawsuits, and Greg M. Gaebe, the Coral Gables lawyer representing Pine Island Farms, were also unavailable for comment.

HERALD.COM

07
11
03

DOWN
9,036.04
-120.17
DOW
30 INDUSTRIALS

S&P 500 988.70
STOCK INDEX -13.51
NASDAQ 1,715.86
STOCK INDEX -31.60
BONDS 3.67
U.S. 10-YEAR NOTE -17

BUSINESS

www.herald.com

DuPont retold to pay a family

An eyeless child, a \$4M award

BY CHRISTINA HOAG
choag@herald.com

In a huge setback for the chemical giant DuPont, the Florida Supreme Court reinstated on Thursday a \$4 million jury award to a former South Dade family that blames a controversial fungicide for their son being born without eyes.

The court overturned a 1999 appellate court decision that had vacated the judgment against the Wilmington, Del.-based manufacturer of Benlate and against Pine Island Farms, a Homestead "u-pick" farm that sprayed chemical on crops as the seven-month-pregnant woman walked in the area.

The 60-page ruling represents a major victory for dozens of families across the United States and Britain that allege that Benlate is responsible for their children's having been born eyeless. Benlate has also been linked to extensive crop and plant damage in South Dade and elsewhere in the country.

Since 1991, some 600 cases have been filed over the chemical. DuPont maintains that the fungicide is safe for both plants and humans but has nonetheless paid out more than \$1 billion in settlements and jury awards.

The former South Dade couple, Juan and Donna Castillo,

▶ PLEASE SEE BENLATE, 2C

▶ BENLATE, FROM 1C

were pioneers in the slew of Benlate cases, taking DuPont and Pine Island to court in 1993, four years after their son, John, was born with the defect known as microphthalmia. In 1996, the Castillos became the first family in the United States to win an award against DuPont.

Three years later, however, the Third District Court of Appeals ruled inadmissible key

expert testimony offered on behalf of the family during the 1996 jury trial. The scientific methodology, the court decided, was flawed.

In Thursday's ruling, though, the state Supreme Court said it was the appellate decision that was wrong. The court found the methodology cited by the experts to be in line with scientists' generally accepted guidelines.

"We quash the Third District's decision and hold that

the trial court properly admitted the Castillos' experts' testimony," the opinion states.

Moreover, the court found, "there was enough direct evidence that Mrs. Castillo was exposed to Benlate to support the jury's verdict against DuPont."

In a statement, DuPont said it was "disappointed" by the decision and noted that the same expert-witness testimony had been ruled inadmissible in a similar West Virginia case in

March 2002.

"DuPont knows of no credible science to support these claims and will continue to defend the product in ongoing Delaware litigation," the statement said.

The company did not say whether it would pursue the Castillo case further.

The Castillos, who have since moved to the Boston area, where their son attends a school for the blind, could not be reached for comment.

Their attorney, James Ferraro of Miami, who is handling some 20 similar lawsuits, and Greg M. Gaebe, the Coral Gables lawyer representing Pine Island Farms, were also unavailable for comment.