

Posted on Tue, Apr. 29, 2008

Jury awards \$24.2 million in asbestos lawsuit

BY PATRICK DANNER

As a teenager working on his stepfather's farm in Punta Gorda, Stephen E. Guilder learned to repair tractors and other farm equipment.

Guilder, of Weston, parlayed his deft handiwork on the farm into a career as a head and neck surgeon, but it's now expected to cost him his life. Guilder, 50, was diagnosed in September with a rare, fatal type of cancer -- which he blames on exposure in the 1970s and early 1980s to brake pads made with asbestos.

On Friday, a Miami-Dade County jury found Honeywell International, the parent of brake maker Bendix, negligent for selling asbestos brakes and awarded Guilder and his family almost \$24.2 million. While it's the largest compensatory jury verdict involving a single defendant in a Florida asbestos case, it was bittersweet for the Guilders, said their lawyer, David A. Jagolinzer.

"They would trade every dime of that for another day of his life," said Jagolinzer, of the Ferraro Law Firm in Miami. Guilder's oncologist testified during the two-week trial that Guilder has a less than 10 percent chance of surviving beyond the fall of next year, Jagolinzer said.

Honeywell spokesman Rob Ferris expressed disappointment with the jury verdict, a rare defeat for the company in Bendix-related asbestos litigation. Honeywell is "confident we will ultimately prevail on appeal," Ferris said in an e-mail. "There is no supportable evidence that Mr. Guilder's disease was caused by exposure to Bendix products."

Honeywell came to own Bendix as a result of a 1999 merger with Allied-Signal, which had merged with Bendix in 1982. Honeywell says it no longer make products containing asbestos. Nine other defendants named in the lawsuit, including Deere & Co. and General Motors, reached confidential settlements before the case went to trial, Jagolinzer said. Caterpillar and Ford Motor were dismissed from the case.

Guilder was diagnosed with peritoneal mesothelioma, a cancer that affects the abdominal lining. Last November, two months after the diagnosis, Jagolinzer said Guilder closed his medical practice. Since then, the cancer has spread throughout his body. Despite his poor health, Guilder attended the trial.

Guilder's case was expedited because of his short life expectancy. The case went to trial less than six months after the suit was filed. Of the \$10.1 million the jury awarded Guilder personally, \$3 million is for future lost earnings and \$6.78 million is for pain and suffering. His wife, Shelia, was awarded \$3.6 million. His three children, ages 18, 16 and 14, were each awarded almost \$3.5 million.

Honeywell has prevailed in the vast majority of Bendix-related asbestos claims that have gone to trial, a company filing with the Securities and Exchange Commission in February indicates. From 1981 through the end of last year, Honeywell says, 125 trials resulted in verdicts in its favor. Ten trials resulted in "adverse" verdicts, although two were reversed on appeal, three were settled, and the remaining five are slated for appeal.

Honeywell has also resolved 113,000 claims outside court, the SEC filing states. Almost 52,000 Bendix-related claims remained unresolved as of the end of last year. Honeywell estimated that its liability for resolving pending and future claims is \$517 million.