

DBR DAILY BUSINESS REVIEW

PRODUCT LIABILITY Death blamed on asbestos

CONFIDENTIAL SETTLEMENT REACHED OVER DOCTOR'S **DEATH BY CANCER**

by Jose Pagliery

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An asbestos products liability case by a deceased Weston doctor against brake maker Bendix ended with a confidential settlement Monday minutes before opening statements were set in a retrial.

The original trial produced a \$24 million award that was thrown out on appeal.

Neither side disclosed the settlement amount, but attorneys for Honeywell International, which acquired Bendix, said the company admitted no fault for Dr. Stephen E. Guilder's rare cancer. He was diagnosed with peritoneal mesothelioma, a deadly disease that causes painful swelling of the abdominal lining. He died at 52 last year.

Attorney David Jagolinzer of the Ferraro Law Firm in Coral Gables, representing the head and neck surgeon's wife and children, said the family was satisfied with the settlement amount.

"She was extremely happy that now she has some sort or clo-



David Jagolinzer

sure," Jagolinzer said of the doctor's widow, Sheila.

Guilder sued the company and several other manufacturers after he was diagnosed with the disease in 2007. He claimed he was exposed to asbestos as a teenager while working on brake pads at his stepfather's farm.

A Miami-Dade jury awarded him \$24.17 million in April 2008.

In its reversal last year, the 3rd District Court of Appeal cited four reasons including the improper awarding of certain damages. A jury for the retrial was selected last week.

Jagolinzer said the settlement "was a substantially higher amount than what was offered even when the jury was out during the first trial."

Honeywell was represented by Wilcox & Savage's Bruce T. Bishop of Virginia and Coral Gables attorney Anthony Upshaw of Adorno & Yoss.

Upshaw said the company was ready to try the case and argue Guilder's exposure to its product was minimal. He also contends scientific facts do not support the notion that the type of asbestos in Bendix brakes causes peritoneal mesothelioma.

"Honeywell does not admit any fault or liability. In fact, I thought our defense was very strong," he said.

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