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Miami Attorney Lands \$4.9 Million Jury Verdict in Decade-Long Litigation

"I never had to retry a case once, let alone twice, let alone a third time," said Juan P. Bauta, a partner at the Ferraro Law Firm.

By Michael A. Mora | May 27, 2021



Miami-Dade Circuit courthouse. Photo: Raychel Lean/ALM

A Miami litigator prevailed in the third trial of a wrongful death lawsuit before the Miami-Dade Circuit Court in which a jury delivered him a multimillion-dollar compensatory damage award.

The litigation is a case study in resilience because Juan P. Bauta, a partner at the Ferraro Law Firm in Miami, said he is already anticipating a fourth trial.

Bauta represented Paula Font, the personal representative of the estate of Luis Torres.

And Bauta said one of his biggest challenges he had to overcome to win the favorable verdict in this asbestos case was dealing with opposing lawyers representing Johns Manville, Union Carbide Corp. and Georgia-Pacific Corp. that were already familiar with his strategy.



Juan P. Bauta. Photo: J. Albert Diaz/ALM

“I never had to retry a case once, let alone twice, let alone a third time. It’s really crazy,” Bauta said. “Both sides are very familiar with what the arguments are going to be and that is always difficult to overcome. But the biggest takeaway for me has been perseverance. You have to believe in your case and keep plugging away.”

Torres died Sept. 15, 2009, of complications of mesothelioma from using the products the defendants either manufactured, sold or distributed, according to court documents.

Before Torres died, he had a full-time job, plus a side venture assisting his son, in residential and commercial projects that involved installing drywall. Bauta claimed his client was exposed to asbestos-containing dust from Georgia-Pacific’s Ready-Mix during his part-time work, per court documents.

Bauta argued that the defendants could have prevented the death if they had some form of warning about the potential respiratory danger of using the product.

However, the defendants questioned whether Bauta could accurately pinpoint Torres’ death to his drywall work on the side for his son, as opposed to the mesothelioma arising from another job site in which asbestos was prevalent.

The case was originally tried 10 years ago in the circuit court and was focused, in part, on the test to apply to determine when a product is defective. The plaintiff relied on the test described in the Third Restatement of Torts. The American Bar Association explained that this test views a product as defective if it could have been designed more safely under a cost-benefit analysis.

The defense won the case, but the Florida Supreme Court ultimately ruled on appeal that the trial court should have utilized the test for when a product is defective from the Second Restatement of Torts. That test means a product is defective if it does not act as safely as a reasonable consumer would have expected it was intended to be used, according to the ABA (<https://www.jstor.org/stable/20745678?seq=1>).

In the second appeal, the Third District Court of Appeal remanded the case primarily because of an incorrect jury instruction and the failure to admit bankruptcy affidavits relating to certain of the defendants, court documents show.

“The Third Restatement of Torts has a lot of controversy about the way it was created,” Bauta explained. “Some people say it is not always a survey of what the laws are throughout the 50 states but rather a view of the law as corporate America would like it to be. Some states have adopted the Third Restatement; others have not.”

Now, Circuit Judge Jose Rodriguez has entered an amended final judgment in which a jury awarded the plaintiff \$14 million in gross compensatory damages.

Read the Miami-Dade Circuit Court order:

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**IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL
CIRCUIT IN AND FOR MIAMI-DADE COUNTY, FLORIDA**

CASE NO: 2010-041578-CA-01
SECTION: CA42
JUDGE: Jose Rodriguez

Torres, Paula
Plaintiff(s)

vs.

America Optical Corp
Defendant(s)

_____ /

AGREED AMENDED FINAL JUDGMENT

This action was tried before the Court and Jury from April 12, 2021 through April 22, 2021. Pursuant to the Verdict rendered in this action, the Jury awarded Paula Font, as Personal Representative of the Estate of Luis Torres \$14,000,000 in compensatory damages of which Defendant Union Carbide Corporation was found 35% at fault.

THEREFORE, IT IS ORDERED AND ADJUDGED, that Plaintiff, Paula Font, as Personal Representative of the Estate of Luis Torres, shall recover from Defendant Union Carbide Corporation, the total

shall initially bear interest at th **Page 1 / 3**

in accordance with Section 55.05(3), Florida Statutes.

However, the jury determined that Union Carbide was 35% at fault. Since two of the three defendants were insolvent, the circuit court limited Bauta’s client to \$4.9 million in compensatory damages from Union Carbide.

Still, Bauta has indicated that the multimillion-dollar award may not be final based upon the litigation history. Bauta pointed out that since the second verdict was an award of nearly \$7 million and the third verdict was \$14 million, if opposing counsel appealed for a fourth time, it could lead to yet a higher monetary award for his client.

Lawyers for Johns Manville, Union Carbide and Georgia-Pacific did not respond to a request seeking comment.

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