

Utility Employee Exposed to Asbestos Awarded Nearly \$13M

by **Celia Ampel**

When spring was in the air at Florida Power & Light Co.'s Turkey Point power plant in the 1970s, so was asbestos, according to a former employee.

The off-peak seasons of spring and fall meant major maintenance at the Homestead plant, including stripping large amounts of asbestos-filled insulation from equipment, Richard Batchelor claims.

"It's just raining down on people," said Batchelor's attorney, Juan Bauta of the Ferraro Law Firm in Miami.

After Batchelor was diagnosed with mesothelioma in December 2015, he filed a lawsuit against 26 companies that might be liable for exposing him to asbestos, including FPL, his former employer.

FPL was shielded from litigation by workers' compensation laws, and claims against all but one of the other defendants were dismissed or settled. The last company standing was the construction and civil engineering firm Bechtel Corp., which oversaw maintenance at Turkey Point as a contractor — a role



J. ALBERT DIAZ

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Bauta said made the premises liability claim challenging.

"What we had to argue was that when Bechtel is on the property doing these giant overhauls, these shutdowns, they then control the premises," said Bauta,

Case: Richard Batchelor et al v.

American Optical Corp. et al

Case no.: 2016-000012-CA-01

Description: Product liability

Filing date: Jan. 2, 2016

Verdict date: Aug. 30, 2016

Judge: Miami-Dade Circuit Judge William Thomas

Plaintiffs attorney: Juan Bauta and Gabriel Saade, the Ferraro Law Firm, Miami

Defense attorney: Frances Spinelli, Evert Weathersby Houff, Atlanta

Verdict amount: \$12.98 million

who tried the case with his colleague Gabriel Saade. “I don’t think it’s ever been done before.”

The novel approach paid off Aug. 30 when a Miami-Dade jury found Bechtel liable for nearly \$13 million in damages to Batchelor and his wife.

Bechtel, represented at trial by Frances Spinelli of Evert Weathersby Houff in Atlanta, argued it was not responsible for Batchelor’s health because he worked for FPL.

The company also argued Batchelor could not trace his disease to asbestos exposure at Turkey Point, where he was an instrument technician starting in 1974. The mesothelioma could have stemmed from Batchelor’s service in the Navy or work he did later in his career, according to Bechtel.

Bauta said Batchelor had minor contact with joint compound at other points in his working life—but he argued it was nothing compared to the torrent of asbestos that allegedly fell at Turkey Point during maintenance seasons.

And although ship records from Batchelor’s time in the military were lost, Bauta told the jury that a nuclear submarine is one of the cleanest environments in the Navy.

“If there was asbestos in the air there, it would be filtered,” Bauta said. “Because these guys are breathing the same air over and over again, it’s being cleaned and re-oxygenated so the boat doesn’t have to come out of the water.”

But Bauta’s main focus at trial before Miami-Dade Circuit Judge William Thomas was the idea that Bechtel had a responsibility to look out for FPL employees such as Batchelor.

Batchelor testified that on a job site, workers looked out for each other’s safety, regardless of who worked for which company. But when Bauta asked Bechtel’s corporate representative whether he would expect FPL to look out for Bechtel workers and vice versa, he gave a different response.

“The guy said, ‘Not necessarily. It all depends,’” Bauta said. “It wasn’t just a straight-up ‘of course.’ ... Anybody who’s ever worked around other people, I don’t care what your business is, you’re going to look out for people. I think that resonated with the jury.”

The jury found Batchelor and his wife, Regina, had suffered nearly \$21.4 million in damages: about \$382,000 for Richard Batchelor’s medical

bills, \$15 million for his pain and suffering and \$6 million for Regina Batchelor’s loss of her husband’s services and comfort.

Bechtel is liable for the full amount of the medical expenses, but only 60 percent of the pain and suffering award, bringing the company’s liability to about \$12.98 million.

The jury found FPL 35 percent liable for the damages. Foster Wheeler Energy Corp., the manufacturer of steam generators that were the largest equipment at Turkey Point, was found liable for the remaining 5 percent. Foster Wheeler settled earlier in the case for a confidential amount, Bauta said.

“The premises was under the control of Florida Power & Light,” said Bechtel’s lawyer, Frances Spinelli of Evert Weathersby Houff in Atlanta. “As such Mr. Batchelor did not have any asbestos exposure, which could be attributable to Bechtel and there was no evidence in the case that Bechtel acted contrary to the appropriate standard of care. Given the unique legal issues raised by these facts, Bechtel will pursue posttrial motions, and, if necessary, appeal.”

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