

VERDICTS & SETTLEMENTS

Miami Attorneys Win \$5.1 Million Asbestos Verdict

by Celia Ampel

The Ferraro Law Firm won a \$5.1 million asbestos verdict for a woman who lost her husband just shy of their 50th wedding anniversary.

David Moore died of mesothelioma in 2012 months after falling ill. Attorneys for his widow, Joyce, said she had to watch her husband waste away rather than enjoy retirement after his decadeslong career at a chemical plant in Port St. Joe.

The plant is where plaintiffs attorneys alleged Moore was



J. ALBERT DIAZ

Jose Becerra and Marc Kunen of the Ferraro Law Firm in Miami won a \$5.1 million asbestos verdict against Chicago-based John Crane Inc.

exposed to asbestos from hands-on work with material made by Chicago-based John Crane Inc.

“One of the main products that they manufacture and sell are mechanical seals that are used in different industrial applications, and Mr. Moore, a large part of his job involved using John Crane packing on

different industrial equipment at the chemical plant,” said Marc Kunen of the Ferraro Law Firm in Miami. Kunen won the July 6 verdict with colleague Jose Becerra.

Moore worked in maintenance at the Glidden Chemical Plant from 1973 to 2006. But before Moore ever set foot in

Case: Joyce Moore v. John Crane Inc.

Case No.: 13-011729

Description: Asbestos

Filing date: May 9, 2013

Verdict date: July 6, 2017

Judge: Broward Circuit Judge Martin Bidwill

Plaintiffs attorneys: Marc Kunen and Jose Becerra, The Ferraro Law Firm, Miami

Defense attorneys: Michael Holt, Stephen Smith and Stella Chu, Rumberger Kirk & Caldwell, Miami; Benjamin Pucci, O’Connell, Tivin, Miller & Burns, Chicago

Verdict amount: \$5.1 million

the door, John Crane knew its materials posed a health hazard, plaintiffs lawyers argued at the trial before Broward Circuit Judge Martin Bidwill.

The company admitted it knew in 1970 raw asbestos was dangerous because the supply it received started carrying warnings. But, Kunen argued, John Crane was negligent because it didn't put warnings on its own products or test them for health risks for more than a decade. The company stopped selling asbestos-containing products in 1985.

But defense counsel argued John Crane's products did not contain enough asbestos to be dangerous.

"The tests were ultimately done, and they confirmed our belief ... that packing does not create a health hazard," Chicago defense attorney Benjamin Pucci of O'Connell, Tivin, Miller & Burns said during closing arguments. "The levels are just too low."

The defense argued Moore's mesothelioma was caused by exposure to insulation made by another company, Johns Manville.

Defense counsel asked the jury to assign liability to Johns Manville and the chemical plant, who were not defendants at trial.

Kunen and Becerra did not ask the jury for a specific amount of money but emphasized how much Moore meant to his wife, six children, 25 grandchildren and six great-grandchildren.

Joyce Moore "was able to shed some light on his personality, which is sometimes hard during a trial," Kunen said. "She was able to give the jury an idea of his sense of humor. ... They used to perform skits, sometimes with the family, sometimes through their church. But that was something that he liked to do."

The jury found John Crane put defective products on the market that caused harm to Moore. Jurors awarded nearly \$7.7 million, assigning 75 percent of the liability to John Crane, 15 percent to the chemical plant and 10 percent to Johns Manville. The apportionment amounts to a \$5.1 million verdict against John Crane.

Defense counsel is challenging the verdict, arguing the judge

made errors that created an unfair trial.

For instance, Bidwill did not allow the jury to hear testimony from John Crane's corporate representative that no records of sales to the Port St. Joe chemical plant could be found, defense counsel argued in a motion to set aside the verdict or hold a new trial.

The jury heard testimony from Moore's former co-worker about working with John Crane products, but the man did not know whether the products contained asbestos, defense counsel wrote. Kunen told the jury "no normal person" would know the exact composition of the products he was working with.

"There are no facts or reasonable inferences to support the jury's verdict," argues the motion filed by Pucci and Miami attorneys Michael Holt, Stephen Smith and Stella Chu of Rumberger Kirk & Caldwell.

Representatives for John Crane did not respond to a request for comment by deadline.

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