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HEADLINE: Mealey's Asbestos Verdicts & Settlements: January 2013 - December 2013

BODY:

Every year, Mealey's Litigation Report: Asbestos compiles, analyzes and reports on verdict information appearing in the report from the previous calendar year. The following report contains that information.

(Collection of 2013 verdicts appearing in Mealey's Litigation Report: Asbestos available 01-140319-005X)

In 2013, Mealey's Litigation Report: Asbestos reported on a total of 36 asbestos-related verdicts totaling \$410,781,717 in damages. The 36 verdicts represent an increase from 2012, when the report featured 28 verdicts and is the highest total since 2010, when the report featured 39 verdicts.

An analysis shows that plaintiffs prevailed in 23 of the verdicts, with defendants prevailing in 12. A trial in Georgia's Chatham County Circuit Court resulted in a mistrial after the jury found defendant John Crane Inc. liable for a man's mesothelioma but awarded no damages.

The 34 percent success rate for defendants compares to their 25 percent success rate in 2012 and is more in line with 2010, when defendants prevailed in 39 percent of the verdicts reported.

State Statistics

The reported trials were spread across 13 states and involved 19 different state courts and three federal courts. California once again led the way in number of verdicts reported with 12. Seven of those verdicts came from Los Angeles County. Defendants prevailed in four of those seven trials. However, Los Angeles juries also awarded plaintiffs the nation's second highest (\$38.89 million) and sixth highest (\$26 million) asbestos awards for the year. BorgWarner LLC was found 35 percent liable the former, and Highland Stucco & Lime Products Inc. 5 percent liable in the later.

The 12 asbestos verdicts in California continue a trend in the state, which saw 10 such verdicts reported in 2012

and 12 such verdicts reported in 2011. All three years remain below the period of 2006 through 2008, when Mealey's reported on almost 20 verdicts per year from the state.

Other states in which Mealey's reported on multiple asbestos verdicts include New York, with five; Louisiana, with three; Washington, with two; Pennsylvania, with two; and Florida, with two.

Averages, Medians And Defendants

Nationally, the average award of all cases taken to verdict and reported on by Mealey's was \$11,410,603. Stripping out defense verdicts and considering only verdicts where plaintiffs prevailed produces a \$17,860,075 average win. The median result of verdicts appearing in Mealey's was \$4,725,000.

Continuing a trend from past years, mesothelioma claims dominated and mesothelioma was the disease in 33 of the reported 36 cases taken to verdict. One of those cases involved mesothelioma tunica vaginalis, commonly called testicular cancer. That case produced \$38 million in damages, including \$11 million in punitive damages against Crane Co. Other than mesothelioma, the report featured one trial involving lung cancer and two involving either asbestosis or pleural thickening. Defendant Crane Co. prevailed on the lung cancer claim, while plaintiffs secured awards of \$225,000 and \$100,000 in the other two cases.

Crane Co. is no stranger to asbestos verdicts. The company took eight cases to verdict and was rewarded with two defense verdicts and a mistrial that also featured John Crane. John Crane appeared a second time, losing a \$100,000 verdict in an asbestosis case.

All told, the report featured verdicts involving 34 defendants. Those taking more than one case to trial were Honeywell International Inc., which took two cases to verdict and prevailed both times, and Union Carbide Corp., which took three cases to verdict and prevailed twice. A jury hit Cleaver-Brooks Inc., the only other company to take more than one case to verdict, for \$3.8 million in one case and \$190 million in another that also involved Burnham LLC.

Notable Awards

Notable verdicts reported included \$190 million awarded to five plaintiffs in a consolidated trial in the New York County Supreme Court. Two cases involved talc defendants. The first produced a \$4.4 million award and 35 percent liability against Southern Talc in Louisiana's Orleans Parish District Court. The second, in the Middlesex County, N.J., Superior Court, involved take-home exposures to cosmetic talc and produced a \$1.6 million award against Whittaker, Clark & Daniels. It is believed by sources to be the first asbestos verdict involving cosmetic talc. Also of note is that in three cases, juries found exposure to a defendant's asbestos-containing products but concluded that the exposure was not a substantial factor in the plaintiff's injury.

Six of the 23 reported plaintiffs' verdicts netted in excess of \$10 million, and all six broke the \$20 million level as well. In 2010, Mealey's reported on 12 awards of more than \$10 million, while in 2011, the report featured eight such awards.

Along with the previously mentioned \$190 million awards and \$38.8 million dollar awards, verdicts of \$38 million from South Carolina, \$35 million in New York and \$27.3 million from California's Alameda County Superior Court rounded out the top five.

Going To Verdict

The report featured 28 plaintiffs' firms. The busiest were Waters, Kraus & Paul; Weitz & Luxenberg; and Simon Greenstone Panatier Bartlett. Each brought four cases to verdict. Also appearing in multiple cases were Brayton Purcell with three and Levy, Phillips & Konigsberg; Kazan, McClain, Satterley, Lyons, Greenwood & Oberman; the Farrise

Law Firm; and Landry, Swarr & Cannella, each with two.

The report featured 39 defense firms. Unsurprisingly, Crane Co.'s national counsel, K&L Gates, appeared the most, with eight cases taken to verdict. Other frequently mentioned defense firms were McKenna, Long & Aldridge and Foley Mansfield, which each appeared five times; Hawkins, Parnell, Thackston & Young, which appeared before a jury four times; Selman Breitman, which appeared three times; and Nelson, Mullins, Riley & Scarborough, which appeared twice.

The awards in this report do not necessarily reflect the ultimate recovery, which can be increased by the addition of interest and fees or reduced or vacated by pretrial settlements, post-trial motions and appeals. These continuing actions are reported on in Mealey's Litigation Report: Asbestos.

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