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## Heard, Robins, Cloud & Lubel, LLP

### Big Deals, Big Suits - Michael E. Jatko, et al. v. Pittsburgh Corning Corp., et al.

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By Bruce Vincent

Attorneys from Houston's WILLIAMS, BAILEY & WESNER and Charleston, S.C.'s NESS MOTLEY LOADHOLT RICHARDSON L POOLE won a judgment of approximately \$33 million for 21 plaintiffs in an asbestos exposure case.

Denman H. Heard, an associate at Williams, Bailey, was lead counsel for the plaintiffs. Heard was assisted by Williams, Bailey name partner John Eddie Williams Jr. and associate Ian P. Cloud, and name partner Ronald L Motley and associate Cameron Waddell from the Charleston and Greenville, S.C., offices, respectively, of Ness Motley.

The plaintiffs group consisted of 25 construction workers and family members who alleged that exposure to an insulation produced by Pittsburgh Corning Corp. contributed to eight lung cancer deaths, two mesothelioma deaths, eight cases of asbestosis and six cases of pleural disease.

Four plaintiffs took nothing in the suit - two for having contributed more than 60 percent to their conditions; one for missing the two-year statute of limitations; and another because his previous settlements with other defendants exceeded the amount he was awarded by the jury.

The plaintiffs alleged the exposure to Unibestos insulation - manufactured and sold by Pittsburgh Corning from 1962 to 1972 - took place at chemical plants and refineries along the Texas Gulf Coast. The plaintiffs also alleged the company sold Unibestos with full knowledge the insulation was a cause of lung cancer, mesothelioma, asbestosis and pleural disease.

In addition to arguing that the plaintiffs contributed to their conditions by smoking, Pittsburgh Corning's lawyers claimed medical and scientific knowledge at the time the insulation was manufactured indicated the product did not cause cancer. The company also disputed the diagnoses of some plaintiffs and claimed it began placing sufficient warnings on the insulation in 1968. The company also argued several of the plaintiffs never came into contact with its product.

Lead counsel for Pittsburgh Corning was name partner Henry G. Garrard III and partner William D. Harvard of Athens, Ga.'s BLASINGAME, BURCH, GARRARD & BRYANT. They were assisted by Nicholas S. Baldo, a senior associate in Beaumont's WELLER, GREEN, McGOWN & TOUPS, and Frank L. Hill, a shareholder in the Austin office of Dallas' THOMPSON & KNIGHT.

Judge Scott Link of the 80th District court in Houston signed the judgment March 1. A jury in Link's court on Jan. 27 had found Unibestos contributed to the plaintiffs' injuries, and that Pittsburgh Corning was negligent and grossly negligent in manufacturing and selling the product. The jury awarded a total of \$25.08 million in actual damages, with individual awards ranging from approximately \$182,000 to \$5.3 million.

The jury did not award punitive damages. Link set prejudgment interest at approximately \$11 million after the jury's award was reduced because of earlier settlements and findings of contributory negligence on the part of seven plaintiffs. Plaintiffs' attorney Heard said Pittsburgh Corning was the only remaining defendant in the case and that each plaintiff settled with approximately 15 to 20 defendants prior to trial.