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Boilermaker's mesothelioma traced to asbestos gaskets in Navy ships

\$4,390,000 Verdict

John Koonce worked at the Norfolk Shipbuilding & Dry Dock Company from 1968 to 1971 as an apprentice boilermaker in the boiler rooms of Victory ships and Liberty ships that were being refurbished for use in the Vietnam War. The daily routine included the fabrication of asbestos gaskets and the removal of asbestos gaskets. This work involved hammering gaskets on flanges, scraping off old gaskets with chisels and scrapers, and removing asbestos residue with power grinders.

Co-workers identified John Crane, Inc., as the primary manufacturer and/or supplier of the asbestos gasket material as well as the asbestos valve packing, asbestos rope, and tape that were used by six to eight boilermaker apprentices and mechanics with and around the plaintiff throughout his employment.

John Crane provided no warnings of any health hazards associated with their products and the workers used these products without any protection or controls. All of the workers were to-

tally ignorant of any risk to their health associated with the dust created by this work. John Crane contended that it knew nothing about asbestos-related diseases until 1970, but even after that, John Crane provided no warnings on any of its products.

Plaintiff's experts testified about the extensive knowledge of the asbestos industry concerning asbestos, lung cancer, and mesothelioma that pre-existed Koonce's exposure to John Crane's products. Experts said there was no safety standard that would prevent cancer from asbestos and that mesothelioma is associated with trivial, low and intermittent exposures to asbestos.

Testing of John Crane's products showed that the gaskets and packing materials released asbestos fibers thousands of times greater than background levels and that these products were friable after they had been in service and subjected to heat.

The medical evidence from Dr. Lemen, former Assistant Surgeon General of the United States, from Dr. John Maddox, a local pathologist, and from Dr. Jacques Legier, another local

pathologist, showed that asbestos-related diseases, including mesothelioma, were well known in the medical community from the early 1960's, that mesothelioma is caused by cumulative exposure, and that all exposures contribute to the dose; therefore, the disease is "indivisible." Dr. Maddox, Dr. Legier, and treating physicians all agreed that despite the removal of Koonce's lung that his prognosis was terminal.

John Crane's witnesses contended that they only sold small quantities of these products to the Navy, that their products were manufactured with chrysotile, which in the opinion of their experts does not cause mesothelioma, and that the tests by their experts showed that fiber release from their products was less than the asbestos concentration in the ambient air.

The jury returned a verdict in the amount of \$4,390,000, and 100 percent of the liability was assigned to John Crane because it was determined by the jury that the disease was indivisible and, therefore, not subject to apportionment. [09-T-004]

VIRGINIA'S LARGEST VERDICTS OF 2008

ASBESTOS

#4 \$4.39 million

Koonce v. John Crane Inc.

Type of Case: Asbestos, mesothelioma
Court: Newport News Circuit Court

Attorneys: Robert R. Hatten, J. Conrad Metcalf, Hugh B. McCormick III, William W.C. Harty, Erin E. Heironimus, Newport News

Summary: Plaintiff was diagnosed with mesothelioma, which can only be caused by exposure to asbestos, in April 2006. He had worked as an apprentice boilermaker from 1968 to 1971 at HATTEN Norfolk Shipbuilding & Dry Dock Co. when World War II-era ships were being refurbished for use in the Vietnam War. Witnesses identified John Crane Inc. as the primary manufacturer of asbestos gaskets and other materials containing asbestos that were used in the project.

John Crane contended it knew nothing about asbestos-related diseases before 1970, but plaintiff's attorneys introduced studies that connected asbestos to mesothelioma years before his exposure to asbestos.

Plaintiff had a lung removed as a result of the disease, and his treating physicians testified that his prognosis is terminal. John Crane has filed a notice of appeal.



HATTEN

Type of Action: Negligence, strict liability, breach of implied warranty

Type of Injury: Mesothelioma

Name of Case: John O. Koonce v. John Crane, Inc.

Court: Newport News Circuit Court

Case No.: 01359DP

Verdict or Settlement: Verdict

Amount of Verdict: \$4,390,000

Date: Sept. 5, 2008

Plaintiff's Attorneys: Robert R. Hatten, J. Conrad Metcalf, Hugh B. McCormick III, William W. C. Harty and Erin E. Hieronimus, Newport News

Plaintiff's Experts: Dr. John Maddox (Pathologist), Dr. Jacques Legier

(Pathologist), Dr. Richard Lemen, (Epidemiologist), Dr. Barry Castleman (Public Health Historian), Jerry Lauderdale (Industrial Hygienist), Dr. William Longo (Materials Scientist)

Defendant's Experts: Dr. Michael Matteson (Chemical engineer in the field of particle behavior), George Springs (Corporate representative), Dr. James Crapo, (Pulmonologist and animal researcher)