

# VERDICTS & SETTLEMENTS

## Mesothelioma kills retired Navy command master chief

### \$3,825,799.27 Verdict

On June 15, a jury in the Newport News Circuit Court returned a verdict against John Crane Inc. in the amount of \$3,825,799.27 in a maritime wrongful death lawsuit. The plaintiff's decedent, Master Chief Gerald Gray, had been diagnosed with mesothelioma in February 2008. He died from disease in April 2009, three weeks before this scheduled trial, leaving his wife and three adult children. The revived wrongful death case pro-

ceeded to trial without a continuance.

At the time of his retirement from the Navy, Gray had been Command Master Chief for the Atlantic Fleet, the second highest enlisted man in the United States Navy. His exposure to asbestos products resulted from his regular and frequent fabrication, installation and removal of asbestos gasket and packing materials throughout this Navy career.

The sole defendant remaining in the trial was John Crane Inc., a manufacturer and distributor of asbestos sheet gasket

and asbestos packing material that Gray had used to repair Navy vessels from 1951 until 1971. A number of other defendants had settled prior to trial.

The plaintiff presented the decedent's testimony through two videotaped depositions, the first in October 2008 and the second on April 3, 2009, approximately 3 weeks prior to Gray's death. Gray's testimony concerning his regular and frequent use of asbestos gasket and packing material manufactured by John Crane was corroborated at trial by a fellow master chief in the Navy who had worked under his supervision.

The plaintiff presented the testimony of Dr. John Maddox, a pathologist at Riverside Regional Medical Center, who has seen over 1,500 cases of mesothelioma, many of which arose in the Tidewater region of Virginia. He testified concerning Gray's diagnosis and the causation of his disease. He concluded that John Crane's asbestos-containing products were a substantial contributing cause of Gray's death.

Dr. William Longo, a materials scientist, testified about tests he performed on John Crane asbestos gaskets and packing that demonstrated the potential for significant asbestos fiber release from those products. He showed the jury videotapes of those tests to illustrate the potential fiber release when those asbestos gaskets or packing were handled, installed or repaired using the work methods employed by Gray and his coworkers.

Dr. Barry Castleman, a public health expert and author of *Asbestos: Medical and Legal Aspects*, testified about medical, scientific and industrial publications that put the asbestos industry on notice of the dangers of asbestosis in the 1930's, the dangers of asbestos-induced lung cancer in the 1940's and 1950's, and the dangers of mesothelioma in the 1950's and 1960's. He explained that each of these diseases are lethal and that they can be prevented by the same precautions.

Dr. Richard A. Lemen, an epidemiologist and former deputy director of NIOSH and former assistant surgeon general of the United States, testified there is no known safe level for occupational asbestos exposure that would prevent mesothelioma, and he stated that this fact has been

known since the 1950's. He further testified that Gray's exposures to John Crane asbestos gaskets and packing created a substantial risk of death from mesothelioma and that John Crane should have been aware of the latent dangers from this exposure throughout the time that Gray was exposed.

Dr. Armistead D. Williams, a neurologist, testified that Gray's wife was in the early stages of progressive Alzheimer's-type dementia, and that she would be expected to incur substantial expenses in the future without her husband's care.

John Crane relied exclusively upon the testimony of one witness: Dr. Ronald Dodson of Texas, an expert in lung tissue digestion techniques for the identification and counting of asbestos fibers. Dr. Dodson contended that the only form of asbestos he found in Gray's lungs was amosite asbestos, a special type of asbestos that was not incorporated into any of John Crane's products.

But he acknowledged that plaintiff's fiber digestion also found chrysotile, the type of asbestos in John Crane's products, and he stated that he had no quarrel with those findings. He further agreed that his tests had limited value and did not necessarily demonstrate the type or amount of asbestos that was in Gray's lungs when the mesothelioma first occurred, or when he breathed asbestos dust in the Navy.

John Crane offered evidence that Gray was also exposed to asbestos products manufactured by Crane Company, Garlock, Yarway, and Warren Pumps, with whom the plaintiff had previously settled. Pursuant to maritime law, the jury apportioned damages for set-off purposes as follows: 30 percent to John Crane; 30 percent to Garlock; 30 percent to Crane Company; 5 percent to Yarway; and 5 percent to Warren Pumps. The jury also awarded interest on the verdict retroactive to January 2008 when Gray's first mesothelioma symptoms occurred.

Maritime damages included Gray's pain and suffering, his wife's economic loss and loss of consortium, and the loss of society, grief and mental anguish of Gray's wife and three children. John Crane has not advised whether it will appeal the verdict.

[09-T-103]

Type of Action: Wrongful death

Injuries Alleged: Mesothelioma

Name of Case: Karen E. Sanders, Executor of the Estate of Gerald P. Gray, deceased v. Owens Illinois Inc., et al.

Court: Newport News Circuit Court

Case No.: C10800724PT

Tried Before: Jury

Special Damages: Medical bills - \$466,434.52; funeral costs - \$9,364.75

Verdict or Settlement: Verdict

Amount: \$3,825,799.27

Plaintiff's Attorneys: Robert R. Hatten, Hugh B. McCormick, Gary M. DiMuzio, William W.C. Harby and Erin E. Hieronimus, Newport News