

**FILED**  
 LOS ANGELES SUPERIOR COURT  
 MAR 20 2009  
 JOHN A. CLARKE, CLERK  
 COUNTY OF LOS ANGELES

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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
 COUNTY OF LOS ANGELES-COURT OF UNLIMITED JURISDICTION

CAROL McGRAIL, individually and as  
 successor-in-interest to Scott McGrail,  
 deceased,

Plaintiff,

vs.

ADVOCATE MINES, LTD., and  
 CERTAINTIED CORPORATION,

Defendants.

Case No.: BC363913

**SPECIAL VERDICT**

Dept: 15, Hon. Richard L. Fruin  
 Complaint Filed: April 25, 2007

We, the jury in this matter, answer the questions submitted to us as follows:

**CLAIM ONE: NEGLIGENCE**

**Question 1:**

Did the defendant, Advocate Mines, Ltd., sell a product containing asbestos that came into contact with Scott McGrail?

12 Yes 0 No

If your answer to Question 1 is "yes", then answer Question 2. If you answered "no", then do not answer Questions 2 through 9 and please go to Question 10.

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**Question 2:**

Was the product used in a way that was reasonably foreseeable to defendant, Advocate Mines, Ltd.?

12 Yes    0 No

If your answer to Question 2 is "yes", then answer Question 3. If you answered "no", then do not answer Questions 3 through 9 and please go to Question 10.

**Question 3:**

Did the defendant, Advocate Mines, Ltd., know, or should it reasonably have known, that the product which contained asbestos was dangerous or was likely to be dangerous when used in a reasonably foreseeable manner?

11 Yes    1 No #2 done

If your answer to Question 3 is "yes", then answer Question 4. If you answered "no", then do not answer Questions 4 through 9 and please go to Question 10.

**Question 4:**

Did the defendant, Advocate Mines, Ltd., know, or should it reasonably have known, that users like Scott McGrail's grandfather would not have realized the danger?

11 Yes    1 No #3

If your answer to Question 4 is "yes", then answer Question 5. If you answered "no", then do not answer Questions 5 through 9 and please go to Question 10.

**Question 5:**

Did the defendant, Advocate Mines, Ltd., fail to adequately warn of the danger?

9 Yes    3 No #2 + #3 #10

If your answer to Question 5 is "yes", then answer Question 6. If you answered "no", then do not answer Questions 6 through 9 and please go to Question 10.

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10/11/09

1 **Question 6:**

2 Would a reasonable seller, under the same or similar circumstances, have warned of the  
3 danger?

4 9 Yes 3 No <sup>13</sup>/<sub>14</sub>

5 If your answer to Question 6 is "yes", then answer Question 7. If you answered "no",  
6 then do not answer Questions 7 through 9 and please go to Question 10.

7 **Question 7:**

8 Was the defendant, Advocate Mines, Ltd.'s failure to warn a substantial factor  
9 contributing to the risk of Scott McGrail's mesothelioma?

10 2 Yes 10 No <sup>4</sup>/<sub>12</sub>

11 If your answer to Question 7 is "yes", then answer Question 8. If you answered "no", then  
12 do not answer Questions 8 through 9 and please go to Question 10.

13 **Question 8**

14 Did the defendant, Advocate Mines, Ltd.'s failure to warn cause harm to Carol McGrail?

15      Yes      No

16 If your answer to Question 8 is "yes", then answer Question 9. If you answered "no",  
17 then do not answer Question 9 and please go to Question 10.

18 **Question 9**

19 Was the defendant, Advocate Mines, Ltd.'s failure to warn a substantial factor in causing  
20 harm to Carol McGrail?

21      Yes      No

22  
23 Answer Question 10

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1 CLAIM TWO: DESIGN DEFECT

2  
3 Question 10:

4 Did the defendant, Advocate Mines, Ltd., sell a product containing asbestos that came  
5 into contact with Scott McGrail?

6 12 Yes 0 No

7 If your answer to Question 10 is "yes", then answer Question 11. If you answered "no",  
8 then do not answer Questions 11 through 16 and please go to Question 17.

9 Question 11:

10 At the time of Scott McGrail's contact with the product containing asbestos, was the  
11 asbestos incorporated into the cement pipe without change or elimination of its hazardous  
12 properties?

13 12 Yes 0 No

14 If your answer to Question 11 is "yes", then answer Question 12. If you answered "no",  
15 then do not answer Questions 12 through 16 and please go to Question 17.

16 Question 12:

17 Did the product sold by defendant, Advocate Mines, Ltd., fail to perform as safely as an  
18 ordinary consumer would have expected, at the time Scott McGrail came in contact with it?

19 11 Yes 1 No<sup>3</sup>

20 If your answer to Question 12 is "yes", then answer Question 13. If you answered "no",  
21 then do not answer Questions 13 through 16 and please go to Question 17.

22 Question 13:

23 Was the product used in a way that was reasonably foreseeable to the defendant,  
24 Advocate Mines, Ltd.?

25 12 Yes 0 No

26 If your answer to Question 13 is "yes", then answer Question 14. If you answered "no",  
27 then do not answer Questions 14 through 16 and please go to Question 17.

1 **Question 14:**

2 Was the defendant, Advocate Mines, Ltd.'s sale of asbestos for use in asbestos cement  
3 pipe a substantial factor contributing to the risk of Scott McGrail's mesothelioma?

4 10 Yes 2 No <sup>2</sup>/<sub>14</sub>

5 If your answer to Question 14 is "yes", then answer Question 15. If you answered "no",  
6 then do not answer Questions 15 through 16 and please go to Question 17.

7 **Question 15:**

8 Did the defendant, Advocate Mines, Ltd.'s sale of asbestos for use in asbestos cement  
9 pipe cause harm to Carol McGrail?

10 9 Yes 3 No <sup>2</sup>/<sub>14</sub>

11 If your answer to Question 15 is "yes", then answer Question 16. If you answered "no",  
12 then do not answer Question 16 and please go to Question 17.

13 **Question 16:**

14 Was the defendant, Advocate Mines, Ltd.'s sale of asbestos for use in asbestos cement  
15 pipe a substantial factor in causing harm to Carol McGrail?

16 9 Yes 3 No

17  
18 **DAMAGES**

19 Answer Question 17 ONLY if you answered "yes" in response to either Question 9 or  
20 Question 16. Otherwise, have the presiding juror sign and date this form.

21 **Question 17:**

22 What do you find to be the amount of damages to plaintiff Carol McGrail, if any?

24 **PAST ECONOMIC LOSSES:**

25 (a)	Stipulated Medical Expenses: .....	\$	<u>288,000</u>
26 (b)	Stipulated Funeral Expenses: .....	\$	<u>2,000</u>
27 (c)	Past Loss of Financial Support: .....	\$	<u>0</u>
28 (d)	Past Loss of Household Services: .....	\$	<u>0</u>

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FUTURE ECONOMIC DAMAGES

(e)	Future Loss of Financial Support: .....	\$	<u>435,000</u>
(f)	Future Loss of Household services: .....	\$	<u>0</u>

NON-ECONOMIC DAMAGES:

(g) The loss of Scott McGrail's love, companionship, affection, society and moral support:

\$ 2,000,000

Answer Question 18.

Question 18:

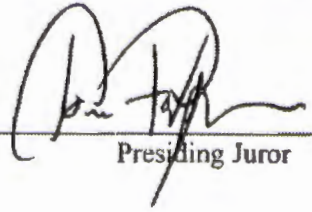
Assuming that 100% represents the total causes of decedent Scott McGrail's harm, what percentage of this 100% is attributable to the negligence, fault or defective product of the defendants and others whose negligence, fault or defective product was a substantial factor in increasing the risk of the development of Scott McGrail's peritoneal mesothelioma?

Answer:

To Defendant Advocate Mines, Ltd.	<u>2</u> %
To Defendant Certainteed Corporation	<u>40</u> %
To Joseph Williams Construction, Inc.	<u>8</u> %
To Johns-Manville Corporation	<u>50</u> %
TOTAL	100%

Have the Presiding Juror date and sign this verdict and ring for the court clerk.

Dated: March 20, 2009

  
\_\_\_\_\_  
Presiding Juror

2009/3/20