

RECEIVED

BY: *AK*

FILED/ENDORSED
 JUL 17 2012
 By: *D. Lashley*
 DEPUTY CLERK

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
 FOR THE COUNTY OF SACRAMENTO**

JAMES LOVELACE,

Plaintiffs,

vs.

PNEUMO ABEX, LLC, et al.,

Defendants.

CASE NO. 34-2011-00104560

JUDGMENT ON SPECIAL VERDICT

DEPT.: 39
TRIAL DATE: May 15, 2012

This action came on regularly for trial, which was originally set May 15, 2012. Jury selection began May 24, 2012, 2012 in Department 39 in the above entitled court, the Honorable David Abbott, judge presiding. The plaintiff James Lovelace appeared by and through his attorneys of record Stephen Healy and Ari Friedman of the law firm of Weitz & Luxenberg, P.C.. Defendant Pncumo Abex, LLC, appeared by and through its attorney of record James Parker of the law firm of Brydon, Hugo and Parker.

A jury of 12 persons was regularly impaneled and sworn on May 24, 2012. Opening statements by counsel for plaintiffs and defendants were given on May 28, 2012. Closing arguments were commenced on June 11, 2012. After hearing the evidence and arguments of counsel, the jury was duly instructed by the Court and the cause was submitted to the jury with directions to return a verdict on special issues. The jury deliberated and thereafter returned into court on June 19, 2012, with its verdict consisting of the special issues submitted to the jury and the answers were given thereto by the jury, which said verdict was in words and figures as follows, to wit:

We answer the questions submitted to us as follows:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1. Were the brake linings misused after they left Abex's possession in a way that was so highly extraordinary that it was not reasonably foreseeable to it?

Yes No

If your answer to question 1 is yes, then answer question 2. If you answered no, skip question 2 and answer question 3.

2. Was the misuse the sole cause of James Lovelace's harm?

Yes No

If your answer to question 2 is no, then answer question 3. If you answered yes, answer question 5.

3. Did the brake linings fail to perform as safely as an ordinary consumer would have expected when used or misused in an intended or reasonably foreseeable way?

Yes No

If your answer to question 3 is yes, then answer question 4. If you answered no, answer question 5.

4. Was the brake linings' design a substantial factor in causing harm to James Lovelace?

Yes No

Answer Question 5.

5. Did the brake linings have potential risks that were known or knowable in light of the scientific and medical knowledge that was generally accepted in the scientific community at the time of manufacture?

Yes No

If your answer to question 5 is yes, then answer question 6. If you answered no, answer question 10.

6. Did the potential risks present a substantial danger to persons using or misusing brake linings in an intended or reasonably foreseeable way?

Yes No

If your answer to question 6 is yes, then answer question 7. If you answered no, answer question 10.

7. Would ordinary consumers have recognized the potential risks?

Yes No

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

If your answer to question 7 is no, then answer question 8. If you answered yes, answer question 10.

8. Did Abex fail to adequately warn or instruct of the potential risks?

Yes No

If your answer to question 8 is yes, then answer question 9. If you answered no, answer question 10.

9. Was the lack of sufficient instructions or warnings a substantial factor in causing harm to James Lovelace?

Yes No

Answer question 10.

10. Was Abex negligent in designing, manufacturing and/or distributing the brake linings?

Yes No

If your answer to question 10 is yes, answer question 11. If you answered no, answer question 12.

11. Was Abex's negligence a substantial factor in causing harm to Mr. Lovelace?

Yes No

If you answered yes to question 4, 9 or 11, answer question 12. If your answer to questions 4, 9 and 11 is no, answer no further questions and have the presiding juror sign and date this form.

12. What are James Lovelace's damages?

Past economic loss

lost earnings	\$ 0	
medical expenses	\$ 95,000	
household services	\$ 48,907	
Total Past Economic Damages:		\$143,907

Future economic loss

lost earnings	\$ 203,257
medical expenses	\$ 200,000

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

household services	<u>\$ 25,000</u>
Total Future Economic Damages:	<u>\$ 428,257</u>
Past noneconomic loss, including physical pain and mental suffering:	<u>\$500,000</u>
Future noneconomic loss, including physical pain and mental suffering:	<u>\$1,000,000</u>
TOTAL	<u>\$2,072,164</u>

If you answered question 12, answer question 13.

13. Was Mr. Lovelace negligent?

Yes No

If you answered question 13 yes, then answer question 14. If you answered no, answer question 15.

14. Was Mr. Lovelace's negligence a substantial factor in causing his harm?

Yes No

Answer question 15.

15. What percentage of responsibility for Mr. Lovelace's harm do you assign to each of the following? The total must equal 100%.

Abex	<u>13</u> %
James Lovelace	<u>0</u> %
Auto Car	<u>1</u> %
Bendix Brakes	<u>13</u> %
Borg Warner Clutches	<u>2</u> %
Clevite Gaskets	<u>2</u> %
Corzad Trailers	<u>1</u> %
California Auto Parts	<u>1</u> %
Chrysler	<u>1</u> %
DAP	<u>13</u> %
Dusty's Auto Parts	<u>1</u> %
Fel-Pro Gaskets	<u>2</u> %
Ford Motor Co.	<u>1</u> %
Freightliner	<u>1</u> %
General Motors	<u>1</u> %
Kaiser Gypsum	<u>13</u> %

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Kenworth	1	%
Libby Owens Ford Glass	0	%
Mack Truck	1	%
McCord Gaskets	2	%
NAPA	1	%
Raybestos Brakes	13	%
Stockton Auto Parts	1	%
Tuxedo Auto Parts	1	%
White Truck	1	%
"Other Vehicle Manufacturers"	0	%
"Asbestos Plumbing Products"	13	%
TOTAL	100	%

If you answered yes to question 4 or 9, answer question 16.

16. Was conduct constituting malice, oppression or fraud committed by one or more officers, directors, or managing agents of Abex?

Yes No

Answer question 17.

17. Did one or more of the officers, directors or managing agents of Abex know of the conduct constituting malice oppression or fraud and adopt or approve of that conduct after it occurred?

Yes No

Signed: Thomasina Turner
Presiding Juror

Dated: June 18, 2012

After the verdict form has been signed, notify the court attendant that you are ready to present your verdict in the courtroom.

It appearing by reason of said special verdict that: Plaintiffs are entitled to judgment against defendant Pneumo Abex, LLC, as follows:

- 1. Against Pneumo Abex, LLC, in the amount of \$195,000.00 for non-economic damages;

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

2. Against Pneumo Abex, LLC, economic damages in the amount of \$572,164.00, plus recoverable court costs and disbursements, but less offsets for pre-verdict settlement with other defendants subject to further court proceedings in accordance with California Law.

THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

That Plaintiffs take \$195,000.00 from defendant Pneumo Abex. LLC, in non-economic damages; and \$572,164.00 in economic damages together with Plaintiff's costs of action subject to further court proceedings in accordance with California Law.

That Defendant Pneumo Abex shall be entitled to a reduction of the economic portion of the damages based on an allocation of monies received, or that will be received, by plaintiff from settlements with other defendants or successful claims asserted against bankruptcy trusts or the like, as determined by the Court at a subsequent hearing, in accordance with California Law.

DATED: July 17, 2012



David W. Abbott
Hon. David Abbott
JUDGE OF THE SUPERIOR COURT