

Plaintiff's Expert Witness: Dr. Burton Davidson, warnings, Rutgers University; Fred Dryer, formulation and reconstruction of the incident, Princeton University.

Defendant's Expert Witness: Sol Spindel.

Plaintiff's Attorney: Jay W. Dankner of Dankner & Milstein, P.C., New York, N.Y.

Defendants' Attorneys: David Feehan of Hoey, King, Perez, Toker & Epstein (for the defendant and third-party defendant Absolute Coatings, Inc.), John Burbridge of Cullen & Dyckman (for Third-Party Defendant, Ladyslaw & Starowicz d/b/a W. Starowicz Construction)

Bazylezyk v. Absolute Coatings, Inc., (Kings Cty. Sup. Ct. Brooklyn, N.Y. Feb. 2001)

Defense Verdict In Suit Against Cigarette Manufacturer

Bonnie Apostolou smoked for 31 years, from 1964 until her diagnosis with lung cancer in May, 1995. She smoked Marlboros, manufactured by Philip Morris, from 1964 until the late 1970s, and True, manufactured by Lorillard from the late 1970's to 1995. She contracted lung cancer in May 1995 and died in October, 1996 at the age of 46. She was survived by her husband, two daughters and several grandchildren.

Suit was brought against the manufacturers of the cigarettes, alleging failure to warn, fraudulent concealment, conspiracy, negligent design and strict liability.

In Phase I of a bifurcated trial, the jury found that smoking was the cause of her lung cancer. In Phase II, the jury found that the decedent expressly assumed the risk of her injury.

Injury: Death.

Result: Jury verdict in favor of defendants.

Plaintiff's Attorneys: Gary Douglas and Stuart Finz of Finz & Finz, P.C., Jericho, N.Y.

Defendants' Attorneys: Thomas J. Quigley and David E. Mollion, of Winston & Strawn, New York, N.Y.; (for Philip Morris); Billy Randle and David Woods of Shook, Hardy & Bacon, Kansas City, Mo. (for Lorillard); Harold Gordon of Jones, Day, et al., New York, N.Y. (for R. J. Reynolds).

Apostolou v. The American Tobacco Co., No. 34734/00 (Kings Cty. Sup. Ct. Brooklyn, N.Y. Jan. 16, 2001)

\$1,017,600 Verdict In Suit Against Manufacturer Of Aerial Lift

The Plaintiffs were injured while working at Thomasville Stone and Lime Company on August 6, 1986 when a boulder broke loose from the ceiling of the mine. The large rock dropped on the upper arm of a 1966 Pitman/Snorkel 65-HD aerial lift platform, throwing the men from the basket of the truck.

A products liability suit was brought against the sellers of the aerial lift. The Defendants were Pitman Manufacturing Company (designer and manufacturer of the aerial lift platform), A.B. Chance Company (legal successor in interest to Pitman), and Figgie International (seller of the platform).

Injury: Rauhauser - fracture of left femur and right ankle (talus) as well as partially torn anterior cruciate ligament in the left knee.

His loss of earnings capacity was approximately \$25,000 and medical costs were more than \$25,000.

Leese - burst fracture at L3 with partial paralysis in legs for about two months. He also suffered a right fibula/tibia injury.

His loss of earning capacity was \$402,000 and medical expenses totaled \$188,000.

Result: Jury verdict awarding \$881,900 to Thomas E. Leese \$135,700 to Scott Robert Rauhauser.

Plaintiff's Expert Witnesses: Steven Estrin, safety engineering, Sarasota, Fla; Dr. Robert Wolf, vocational economic, Cherry Hill, NJ; Dr. Edward Schwenkter, orthopedic and spinal rehabilitation, Hershey Medical Center, Pa.; Dr. Michael Moritz, orthopedic doctor for Rauhauser, York, Pa.

Defendant's Expert Witnesses: Charles Morin, P.E., metallurgy/design, Aurora, Illinois (for AB Chance); Michael Trainor, mine safety, Pittsburgh, Pa. (for AB Chance); Charles Recard, aerial platform design, Chambersburg, Pa. (for Figgie)

Plaintiff's Attorney: Peter M. Patton, Galfand Berger, Philadelphia, Pa.

Defendant's Attorneys: Austin Hogan, White and Williams, Philadelphia, (for Figgie International Inc.); John E. Wall, Dickie, McCamey & Chilcote, P.C, Pittsburgh, (for Pitman Manufacturing Company and AB Chance Company)

Leese v. Pitman Manufacturing Company, 1988 SU 02266 01 (York County Court of Common Pleas, Pa. February 9, 2001)