

## COMMERCIAL PRODUCTS &amp; EQUIPMENT

## PAINTS &amp; SOLVENTS

## Failure to Warn

## Painter with leukemia blamed exposure to paints and solvents

SETTLEMENT \$2,282,002

**CASE** Theodore Camizzi, Rhode Camizzi, Individually and On Behalf of Her Minor Children Anthony Camizzi, Gabriel Camizzi, Victoria Camizzi v. Akzo Nobel Aerospace Coatings Inc., Akzo Nobel Aerospace Coatings Inc., Arch Chemicals Specialty Products Inc., Arch Specialty Chemicals, Ashland Inc., Atlantic Richfield Co., Atofina Chemicals Inc., BASF Corp., Baxter Healthcare Corp., Beazer East Inc., Chemetall Oakite, Chemicals Specialty Products, Continental Coatings Co. Inc., D. Aircraft Products Inc., Deft Inc., Dexter Corp., Dunn-Edwards Corp., E.I. Du Pont De Nemours & Co., E/M Corp., Engineered Fabrics Corp., Exxon Mobil Corp., Fisher Scientific Co., The Gildeen Co., ICI Americans Inc., Kop-Coat Inc., Mallinckrodt Baker Inc., Charles E. Merrill, PRC-De Soto International Inc., Shell Oil Co., The Sherwin-Williams Co., Stabond Corp., Turkish Products Inc., U.S. Paint Corp., Unocal Corp., WLS Coatings, Inc., No. BC 289503

**COURT** Superior Court of Los Angeles County, Central, CA

**JUDGE** Aurelio N. Munoz  
**DATE** 5/2/2005

**PLAINTIFF ATTORNEY(S)** Raphael Metzger (lead), The Law Offices of Raphael Metzger, Long Beach, CA

**DEFENSE ATTORNEY(S)** Michele L. Abracen, Morris, Polich & Purdy LLP, Los Angeles, CA (Mallinckrodt Baker Inc.)  
David J. Altman, Winston & Strawn LLP, Los Angeles, CA (The Glidden Co.)  
Craig S. Barnes, Sedgewick, Detert, Moran & Arnold LLP, Los Angeles, CA (Akzo Nobel Coatings Inc., Akzo Nobel Aerospace Coatings, Inc., Dexter Corp.)  
Laura J. Barns, Wesierski & Zurek LLP, Irvine, CA (Arch Chemicals Specialty Products Inc., Arch Specialty Chemicals)

William A. Bossen, Musick, Peeler & Garrett LLP, Los Angeles, CA (Continental Coatings Co. Inc.)  
Jeffrey Bradpiece, Law Office of Jeffrey Bradpiece, Torrance, CA (WLS Coatings Inc.)

Ingrid Calle, Tropio & Morlan, Canoga Park, CA (Atlantic Richfield Co.)

John F. Cermak, Jr., Jenkens & Gilchrist LLP, Los Angeles, CA (Beazer East Inc.)

George Y. Chen, Lymberg & Watkins APC, Orange, CA (Deft Inc.)

Roger W. Clark, Clark & Goldberg APFC, Santa Monica, CA (Stabond Corp.)

Deidre F. Cohen, Walsworth Franklin Bevins & McCall LLP, Orange, CA (Dunn-Edwards Corp.)

Steven M. Cohen, Clark & Goldberg APFC, Santa Monica, CA (Stabond Corp.)

Lisa D. Collinson, Forgey & Hurrell LLP, Los Angeles, CA (PRC-De Soto International Inc.)

V. Rene Daley, Lindahl, Schnabel, Kardassakis & Beck LLP, Los Angeles, CA (The Sherwin-Williams Co.)

William P. Donovan Jr., Piper Rudnick LLP, Los Angeles, CA (E/M Corp.)

Craig L. Dunkin, Lewis Brisbois Bisgaard & Smith LLP, Los Angeles, CA (U.S. Paint Corp.)

Gregory E. Eisner, Jenkens & Gilchrist LLP, Los Angeles, CA (Beazer East Inc.)

Sheri Flame Eisner, Pillsbury, Madison & Sutro LLP, Los Angeles, CA (BASF Corp.)

John R. Feliton, Jr., Bottum & Feliton, Los Angeles, CA (U.S. Paint Corp.)

Mark S. Geraghty, Thelen, Reid & Priest LLP, Los Angeles, CA (D. Aircraft Products Inc.)

James W. Hunt, Mendes & Mount LLP, Los Angeles, CA (Engineered Fabrics Corp., Turkish Products Inc.)

Thomas C. Hurrell, Forgey & Hurrell LLP, Los Angeles, CA (PRC-De Soto International Inc.)

Scott J. Ivy, Musick, Peeler & Garrett LLP, Los Angeles, CA (Continental Coatings Co. Inc.)

Tamar K. Lanuza, Walsworth Franklin Bevins & McCall LLP, Orange, CA (Dunn-Edwards Corp.)

Mimi M. Lee, Thelen, Reid & Priest LLP, Los Angeles, CA (D. Aircraft Products Inc.)

Mitchell L. Leverett, Wait & Childs, Claremont, CA (Kop-Coat Inc.)

## COMMERCIAL PRODUCTS &amp; EQUIPMENT

**Neal R. Marder**, Sonneschein, Nath & Rosenthal, Los Angeles, CA (The Glidden Co.)  
**Timothy F. McCurdy**, Husch & Eppenberger LLC, St. Louis, MO (Arch Chemicals Specialty Products Inc., Arch Specialty Chemicals)  
**Kevin J. McNaughton**, Schaffer Lax McNaughton & Chen APC, Los Angeles, CA (Stabond Corp.)  
**J. Richard Morrissey**, Pillsbury Winthrop Shaw Pittman LLP, Los Angeles, CA (BASF Corp.)  
**Richard R. Nelson**, Mendes & Mount LLP, Los Angeles, CA (Engineered Fabrics Corp., Turkish Products Inc.)  
**James M. Neudecker**, Reed Smith Crosby Heafey LLP, Oakland, CA (Baxter Healthcare Corp.)  
**Lawrence P. Riff**, Steptoe & Johnson LLP, Los Angeles, CA (Ashland Inc., E.I. Du Pont De Nemours & Co., Exxon Mobil Corp., Fisher Scientific Co., Shell Oil Co., Unocal Corp.)  
**Jeffrey A. Rosenfeld**, Piper Rudnick LLP, Los Angeles, CA (E/M Corp.)  
**Laurence H. Schnabel**, Lindahl, Schnabel, Kardassakis & Beck LLP, Los Angeles, CA (The Sherwin-Williams Co.)  
**Patrick S. Schoenburg**, Wood Smith Henning & Berman LLP, Los Angeles, CA (Chemetall Oakite)  
**Scott T. Tropio**, Tropio & Morlan, Canoga Park, CA (Atlantic Richfield Co.)  
**Thomas B. Wait**, Wait & Childs, Claremont, CA (Kop-Coat Inc.)  
**Guy Webster**, Lynberg & Watkins APC, Orange, CA (Deft Inc.)  
**Christopher P. Wesierski**, Wesierski & Zurek LLP, Irvine, CA (Arch Chemicals Specialty Products Inc., Arch Specialty Chemicals)  
**David F. Wood**, Wood Smith Henning & Berman LLP, Los Angeles, CA (Chemetall Oakite)  
**James M. Wood**, Reed Smith Crosby Heafey LLP, Oakland, CA (Baxter Healthcare Corp.)  
**Megan S. Wynne**, Morris, Polich & Purdy LLP, Los Angeles, CA (Mallinckrodt Baker Inc.)

**FACTS & ALLEGATIONS** From 1991 to 1992, Theodore Camizzi, 40, the pastor of a small church in Rancho Cucamonga, worked part-time as an aircraft painter at a Los Angeles branch of McDonnell Douglas Corp., Chicago. Eleven years later, Camizzi

came down with a rare form of leukemia.

Camizzi and his wife Rhode, 40, a homemaker, individually and on behalf of their three minor children—Victoria, Gabriel, and Anthony—sued 35 separate manufacturers of paints, stains, finishings, chemicals, oils and fabrics for products liability. One defendant, PRC-Desoto International Inc., Glendale, was dismissed on summary judgment.

Plaintiffs' counsel claimed that Camizzi's disease was caused by exposure to benzene-contaminated paints and solvents that he used to clean his paint gun and his hands while working at McDonnell Douglas.

Plaintiffs' counsel argued that none of the paint or solvent products had warning labels indicating that the products contained benzene or that exposure to benzene can cause leukemia.

All the defendants denied liability, contending that Camizzi's leukemia was spontaneously induced. The defense reasoned that the products contained trace concentrations of benzene and that exposure to such extremely small amounts of the chemical could not cause leukemia. Thus the manufacturers argued they were not obligated to put warning labels on their products indicating a possible benzene-leukemia link.

Counsel for the paint and solvent manufacturers further argued that McDonnell Douglas was 100% liable, as the company was a sophisticated intermediary that had to be aware of any benzene hazard when providing Camizzi with respiratory and skin-protective equipment.

The defense also blamed McDonnell Douglas because the defendants made the paint and solvents according to specifications provided by the company.

#### **INJURIES/DAMAGES** *acute myelogenous leukemia; leukemia*

Camizzi suffered from acute myelomonocytic leukemia with eosinophilia, which causes fever, weakness, unexplained weight loss, fatigue, aching bones and joints, repeated infections, slow wound-healing, frequent and easily produced bruising and bleeding, and spotting of the skin.

Camizzi claimed past medical expenses of \$825,000, lifetime lost wages of \$600,000 because he could no longer serve as pastor of a church, and an unspecified amount of damages for pain and suffering. His wife and children made an unspecified loss of consortium claim.

**RESULT** After three mediation sessions the case settled, with each defendant paying a different amount for a total of \$2,282,002.

#### **PLAINTIFF**

#### **EXPERT(S)**

**Nachman Brautbar, M.D.**, occupational medicine, Los Angeles, CA  
**Noel DeNevers**, cleaning solvent contamination, Salt Lake City, UT  
**Peter Formuzis, Ph.D.**, economics, Santa Ana, CA  
**Robert Peter Gale, M.D.**, hematology, Los Angeles, CA

## COMMERCIAL PRODUCTS/CONSUMER PRODUCTS

## CONSUMER PRODUCTS

## FOOD

## Ingestion of bad turkey during pregnancy affected kid's IQ

SETTLEMENT **\$3,000,000**

**CASE** Laron Harvey, by and through his guardian ad litem Shakanda Hampton, and Shakanda Hampton, individually v. Pilgrim's Pride Corp. and Jack Lambersky Poultry Co., No. 03-cv-3500

**COURT** U.S. District Court, Eastern District of Pennsylvania, Philadelphia

**JUDGE** Timothy J. Savage

**DATE** 5/11/2006

**PLAINTIFF ATTORNEY(S)** David F. Itkoff, David F. Itkoff & Associates P.C., Penns Park, PA  
 Brandon Swartz, David F. Itkoff & Associates P.C., Penns Park, PA

**DEFENSE ATTORNEY(S)** Gerard P. DeVeaux, McElroy Deutsch & Mulvaney, Morristown, NJ (Jack Lambersky Poultry)  
 Michael A. Pollard, Baker & McKenzie, Chicago, IL (Pilgrim's Pride)  
 Michael J. Wagner, Baker & McKenzie, Chicago, IL (Pilgrim's Pride)

**FACTS & ALLEGATIONS** In conjunction with a listeriosis outbreak that hit the Northeast in the summer of 2002, plaintiff Shakanda Hampton, a cashier in her late 20s, contracted the infection in her 28th week of pregnancy in August. (The disease primarily affects pregnant women, newborns and adults with weakened immune systems. On Aug. 19, Hampton gave birth to her son, plaintiff Laron Harvey, one month premature. He was born deaf in one ear and has developmental delays.

Hampton, individually and on behalf of her son, sued meat manufacturing companies Pilgrim's Pride Corp., Pittsburg, Texas, and Jack Lambersky Poultry, Camden, N.J., for products liability. Plaintiffs' counsel contended that the listeriosis that caused Laron's birth defects was a result of tainted turkey Hampton ate traceable to the two companies' turkey processing plants; Jack Lambersky's Camden plant and Pilgrim's Pride's Franconia, Pa., plant.

The Centers for Disease Control conducted an epidemiological investigation and found that the "likely" source of the outbreak was contamination at the Jack Lambersky plant and that another "possible" source was the Pilgrim's Pride plant. A

Peter F. Infante, M.D., epidemiology, Falls Church, VA  
 Mark Nicas, Ph.D., C.I.H., industrial hygiene, Berkeley, CA  
 Martyn Smith, toxicology, Berkeley, CA  
 Mr. Roger L. Wabeke, industrial hygiene, Dearborn, MI

DEFENSE  
EXPERT(S)

John M. Bennett, hematology, Rochester, NY (Did not testify)  
 Charles Castro, PhD, chemistry, Laguna Beach, CA (Did not testify)  
 Morton Corn, Ph.D., industrial hygiene, Queenstown, MD (Did not testify)  
 Thomas Delfino, biochemistry, Oakland, CA (Did not testify)  
 Dan Douer, M.D., hematology, Los Angeles, CA (Did not testify)  
 Philip Edelman, M.D., toxicology, Washington, DC (Did not testify)  
 Brent L. Finley, Ph.D., D.A.B.T., risk assessment, Santa Rosa, CA (Did not testify)  
 David H. Garabrant, M.D., epidemiology, Ann Arbor, IL (Did not testify)  
 Lawrence Keller, consumer products, Murrysville, PA (Did not testify)  
 Gerald Purswell, occupational exposure, Colorado Springs, CO (Did not testify)  
 Jane Teta, Ph.D., epidemiology, Southbury, CT (Did not testify)  
 James Unmack, industrial hygiene, Los Angeles, CA (Did not testify)  
 Gail Vance, genetics, Indianapolis, IN  
 David J. Weiner, Ph.D., economics, Los Angeles, CA (Did not testify)  
 Edward J. Workman, Ph.D., vocational rehabilitation, San Clemente, CA (Did not testify)  
 Harold I. Zeliger, chemistry, West Charlton, NY (Did not testify)

**POST-TRIAL** Plaintiffs' counsel filed an appeal of PRC-DeSoto's dismissal.

**EDITOR'S NOTE** VerdictSearch made best efforts to contact all the defense counsel lawyers but was unable to do so. As a result, this report reflects only information provided by some of the defense lawyers.

—Rob MacKay