

## A S B E S T O S

## WORKPLACE

## Failure to Warn

## Woman claimed tumor was caused by airborne exposure

## VERDICT

Defense

## CASE

Barbara Harris and Alvin Dale Harris  
v. Bondex International, Inc., et. al.,  
No. BC357559

## COURT

Superior Court of Los Angeles County, CA

## JUDGE

Teresa Sanchez-Gordon

## DATE

4/26/2007

## PLAINTIFF

## ATTORNEY(S)

Chris Panatier, Simon, Eddins &  
Greenstone, Dallas, TX  
Saar Swartzon, Simon, Eddins &  
Greenstone, Long Beach, CA

## DEFENSE

## ATTORNEY(S)

Karen P. Agelson, Walsworth, Franklin  
Bevins & McCall LLP, Orange, CA  
(Hamilton Materials Inc.)  
Kellie Geyer, Walsworth Franklin Bevins  
& McCall LLP, Orange, CA  
(Hamilton Materials Inc.)  
Erin K. Hayner, Walsworth, Franklin,  
Bevins & McCall LLP, Orange, CA  
(Bondex International Inc., RPM Inc.)  
Stephen M. Nichols, Walsworth, Franklin,  
Bevins & McCall, Orange, CA  
(Bondex International Inc., RPM Inc.)  
Lisa A. Sapcoe, Armstrong & Associates,  
Oakland, CA (Elements Chemicals Inc.)

**FACTS & ALLEGATIONS** From 1961 until approximately 1977, plaintiff Barbara Harris, now 79, worked in building management at various locations in and around Los Angeles. During that time, she had the responsibility of overseeing the progress of tenant improvements. This work brought her in contact with airborne asbestos.

On June 6, 2006, Harris was diagnosed with mesothelioma in the pleural cavity of her right lung.

She sued Bondex International, Inc./RPM Inc., Hamilton Materials, Inc., Elementis Chemicals, Inc. and 22 other alleged asbestos exposing manufacturers. Of the 25 defendants, only three took the case to verdict, including Bondex International, Inc./RPM, Inc., Hamilton Materials, Inc., and Elementis Chemicals. Bondex International, Inc./RPM, Inc., and Hamilton Materials, Inc., were both joint compound manu-

facturers, while Elementis Chemicals, Inc., formerly supplied asbestos to joint compound manufacturers.

She sued the companies for negligence, strict liability, malice and oppression.

Harris alleged that Bondex International, Inc./RPM, Inc., distributed a defective product that was a substantial factor in causing her mesothelioma. Harris further alleged that Bondex International, Inc./RPM, Inc. failed to warn her of asbestos hazards, and was negligent.

In addition, Harris alleged Hamilton Materials, Inc.'s, products were defective, and the company was liable for either failure to warn or negligence.

Elementis Chemicals, Inc., Harris argued, distributed a defective product and was negligent.

The defense argued that the products were not a substantial factor in causing Harris' mesothelioma. They further alleged Harris incorrectly identified their products.

**INJURIES/DAMAGES** *mesothelioma*

Two months after being diagnosed with mesothelioma, Harris had surgery in August 2006 to remove the tumor from the lining of her lung and also underwent radiation. Mesothelioma is a uniformly fatal disease and it will cause Harris' death.

She sought undisclosed damages for pain and suffering and her medical bills.

**RESULT** The jury returned a defense verdict.

**TRIAL DETAILS**

Trial Length: 21 days  
Trial Deliberations: 1.5 days  
Jury Vote: 9-3  
Jury Composition: 9 female, 3 male,  
5 Caucasian, 2 African American,  
2 Asian, 2 Hispanic

**PLAINTIFF****EXPERT(S)**

Arnold R. Brody, M.D., oncology,  
New Orleans, LA  
Robert Cameron, M.D., oncology,  
Los Angeles, CA  
Edwin Holstein, Ph.D., environmental  
carcinogenesis, Boston, MA  
Eugene Mark, MD, pathology,  
Boston, MA

**DEFENSE****EXPERT(S)**

William G. Hughson, M.D., pulmonary/  
respiratory diseases, San Diego, CA

**EDITOR'S NOTE** This report is based on information that was provided by plaintiff's and the defense counsel.

—Michael Rehak