

MESOTHELIOMA TRIAL RESULTS IN \$13.2 MILLION AWARD, INCLUDING \$6 MILLION IN PUNITIVE DAMAGES FOR RETIRED SAN FRANCISCO ELECTRICIAN

Featured Case

San Francisco, CA: James Mills, a Robert W. Johnson testifying economist, was retained to provide economic testimony on the financial condition (economic health, wealth & status) and ability to pay of punitive damages for Kaiser Gypsum Co., Inc.

Citation: Melvin Desin v. Asbestos Corporation Limited, et al., Superior Court of San Francisco County, Case No. CGC-11-275881. Plaintiff's attorneys Gilbert L. Purcell of Brayton Purcell, L.L.P. and Christopher Hersom (second chair). The judge was the Honorable Suzanne Bolanos.

Case Synopsis: Mr. Desin has been battling asbestos-caused mesothelioma, an invariably fatal cancer of the lining of the lungs caused exclusively by asbestos, since his diagnosis in April of 2011.

Mr. Desin served in the United States Coast Guard and worked as an electrician at numerous residential sites and commercial buildings throughout San Francisco between 1953 and 1997, when he retired from working in the electrician trade. Mr. Desin worked directly with asbestos-containing products and near others that used and distributed asbestos-containing products.

(Continued on page 2)

IN THIS EDITION

Page 1 Featured Case

Page 1 Structured Attorney Fees

Page 4 2013 Year End Verdict Summary

HOW CAN YOU BENEFIT FROM STRUCTURED ATTORNEY FEES?

Structured Attorney Fees provide a unique opportunity for attorneys to accumulate wealth, with unmatched rates of return.

Structuring is the ideal vehicle to achieve greater wealth accumulation. You can *defer taxes*, *receive unmatched rates of return* and, most importantly, be able to *pay yourself first*.

As an attorney, that your fees can-cases will arrive conclude, which your fees do



you already know can be unpredictable-not be sure when or when they will makes it challenging to manage cash flow. When arrive, taxes can take a huge bite from your income.

Structured Attorney Fees allow you to:

- Defer up to 100% of your pre-tax income
- Contribute as much income as you like
- Increase your guaranteed flow of income
- Even out your cash flow

Moreover, structuring your fees gives you a chance to plan for the "big things" in your life. For you, the "big thing" might be buying that next big house, or sending your child to Stanford,

(Continued on page 3)

We are proud to announce that James A. Mills is now providing expert testimony.



MESOTHELIOMA TRIAL RESULTS IN \$13.2 MILLION AWARD

(Continued from page 1)

At trial, plaintiffs presented evidence showing that the knowledge of hazards of exposure to asbestos dates from prior to the 1920's. Indeed, knowledge of its dangers had progressed to the point of knowing it caused cancer as early as the 1950's.

Mr. Desin sued Kaiser Gypsum Company, Inc., a manufacturer of asbestos-containing joint compounds, and Union Carbide Corporation, a supplier of asbestos fiber to joint compound manufacturers. Mr. Desin's counsel argued that Union Carbide was negligent for supplying the asbestos fiber to Kaiser Gypsum and that Kaiser Gypsum was negligent for continuing to create the asbestos containing products without any warnings.

Kaiser Gypsum's counsel argued that Mr. Desin's exposure to Kaiser asbestos-containing joint compounds was not large enough in dose to cause Mr. Desin's mesothelioma. Counsel also argued that exposure to the type of asbestos used in Kaiser Gypsum's joint compounds, chrysotile asbestos, does not cause mesothelioma.

Kaiser Gypsum's counsel argued that Mr. Desin's exposure to Kaiser asbestos-containing joint compounds was not large enough in dose to cause Mr. Desin's mesothelioma. Counsel also argued that exposure to the type of asbestos used in Kaiser Gypsum's joint compounds, chrysotile asbestos, does not cause mesothelioma.

Mr. Desin sought recovery of \$260,939 in damages for his medical costs and an additional, unspecified amount of damages for this pain and suffering. In addition, Mr. Desin sought punitive damages for Kaiser Gypsum's alleged oppression and malice.

Result: On October 25, 2012, after a nine week trial and 2½ days of deliberations, the San Francisco jury found Gypsum Kaiser Company, Inc. negligent. In addition, they found that the Company's asbestos-containing joint compounds were defectively designed and that the company failed to warn of the defects. The verdict consisted of \$507,939 in economic damages and \$6,720,000 in non-economic damages for a total of \$7,227,939.

Punitive Damages Testimony: Mr. Mills testified not only to Kaiser Gypsum's current financial health, wealth and economic status, but also as to the history of their financial condition and specifically, the current value of the assets the company had divested in the 1970's and 1980's.

Mr. Mills was provided documentation showing that Kaiser Cement & Gypsum received net cash of \$28 Million in 1978 for the sale of "almost all of its Gypsum assets...", and that Kaiser Cement & Gypsum had an after-tax gain of \$7.8 Million on that sale. Further evidence in the case showed that, also in 1978, Kaiser Gypsum Co., Inc. sold its St. Helens, WA plant to Owens-Corning Fiberglass for \$6 Million. Finally, these same documents showed that Kaiser Gypsum Co, Inc. sold its Delanco, NJ plant to U.S. Gypsum Co. in 1981 for over \$4 Million.

Mr. Mills then estimated the current value of the

(Continued on page 4)

The Proper Perspective

"It is not from benevolence of the butcher, the brewer, or the baker that we expect our dinner, but from their regard to their own interest." --Adam Smith

HOW CAN YOU BENEFIT FROM STRUCTURED ATTORNEY FEES?

(Continued from page 1)

or buying out your partner when they retire. Whatever the “big thing” might be for you, the important point is that structuring your fees gives you the ability to achieve it – easily, painlessly, and with an unmatched rate of return.

How do structured settlements compare to traditional investments?

Structured Attorney Fees have been around since the mid 1990's. Unfortunately, attorneys have been reluctant to structure their fees because they have not been able to accurately compare this investment with other investment vehicles. Robert W. Johnson & Associates has developed the Tax Equivalent Guaranteed Return (**T.E.G.R.SM**) methodology to simplify this comparison for you.

What is the **T.E.G.R.SM**? The **T.E.G.R.SM** is the guaranteed rate of return that any other investment needs in order to match the pre-tax payout of Structured Attorney Fees.

Pre-Tax Comparison

It is important to remember that with Structured Attorney Fees you are working with 100% of your money because you invest on a pre-tax basis. It is also important to understand that the results are **guaranteed**. With a traditional investment, you are typically working with 60% - 65% of your money after-taxes, and the results usually are **not guaranteed**.

Unmatchable Rates of Return

Structuring your fees gives you an unmatched rate of return, with annual **Tax Equivalent Guaranteed Returns** that can reach:

- 20+% for a 5-year investment
- 15+% for a 10-year investment
- 10+% for a 20-year investment

A Long-Term Scenario: Funding Retirement

An attorney planning to retire has just settled a case with \$500,000 in fees. The attorney has the option to either **(a)** structure their \$500,000 fee, or **(b)** pay the tax and invest the balance.

(a) If the attorney structures their fee, the \$500,000 will pay out \$38,229 annually, before tax, over 20 years, **guaranteed**.

(b) On the other hand, if the attorney pays the 40% tax (\$200,000) and invests the \$300,000 balance, the investment would need to generate a **T.E.G.R.SM** of **11.23%** to match the structure's **guaranteed** total payout.

Clearly, few investments are likely to yield a steady return of 11.23% over 20 years, whereas the structure is **guaranteed**, no matter what happens. The structured approach is the obvious choice to maximize the return on the initial fee.

The benefits are clear:

- **Unbeatable, guaranteed returns**
- **Increased cash flow and lower taxes**
- **100% tax deferral**
- **Unlimited contribution allowance**

You can use the structure as an investment vehicle to meet almost any financial goal.

Structured Attorney Fees beat every other guaranteed investment vehicle for investing and maximizing the benefit from your hard-earned fees. It not only makes more money, but it is unhindered by down-turns in the economy and the stock market.

You provide the vision and we'll provide the investment vehicle.

All you need to do is contact us at (800) 541-7435 and we'll help you get started.

2013 Year End Verdict Summary

2013 Year End Verdicts			
Attorney	Case	Case Type	Verdict
Simona A. Farrise	Medina, et al. v. BorgWarner, Inc., et al.	WD - Mesothelioma / Punitive Damages	\$38,890,000
Lesley Ann Clement	Boice, et al. v. Emeritus Corporation, et al.	WD - Punitive Damages	\$22,963,944
Julia R. Arfaa / Ruslan Kondratyuk	Ross, et al. v. Dimensions Healthcare Associates, Inc., et al.	PI - Medical Malpractice	\$15,650,000
Craig M. Peters / S. Anoush Lancaster	Martinez, et al. v. Herndon Partners LLC, et al.	WD - Electrocutation	\$13,337,589
Joseph D. Satterley / Andrea Huston	Grigg, et al. v. Allied Packing & Supply, Inc., et al.	PI - Punitive Damages	\$11,000,000
Staci M. Yandle	Wilkes, Richard v. Walter Kistler, M.D., et al.	PI - Medical Malpractice	\$5,200,000
Anthony S. Petru	Fair, Delton, et al. v. BNSF Railway Company, et al.	PI - Railroad	\$3,216,000
Timothy Litzenburg	An, Camhong, et al. v. Nieberlein, et al.	WD - Bladder Cancer (Actos)	\$1,750,000
Anthony S. Petru / Kristoffer Mayfield	Black, Dale v. BNSF Railway Company, et al.	PI - Railroad	\$1,650,000
Totals			\$113,657,533

(Continued from page 2)

proceeds from each of these sales, assuming that they had been invested in either U.S. Government Treasuries, the stock market (Dow Jones Index), or in investments that mirrored inflation. The result of these calculations was that the current value of the combined assets would have been between \$155.0 Million and \$666.1 Million.

Additionally, during trial and while on the witness stand, Mr. Mills was shown Kaiser Gypsum's income tax returns. Without having time to completely analyze the documents, Mr. Mills was able to explain to the jury that the only way for the company to maintain a constant net worth, while at the same time setting aside funds to pay asbestos claims, was if another entity was

funding those claims through Kaiser Gypsum. On November 2, 2012, the jury awarded Mr. Desin \$6 million in punitive damages.

Attorney's Comments: "Mr. Mills helped the jury to understand the true financial condition of the defendant. Although the defendant has not operated for decades, Mr. Mills was able to examine historical documents, including old news releases, and explain to the jury in clear and understandable terms how that information revealed the defendant's actual financial condition. Mr. Mills was able to take tax return information received during trial and convey that data to the jury in a way that supported his opinions and assisted them in their task."

About Robert W. Johnson & Associates: A nationally recognized, full service, consulting firm that specializes in illustrating and quantifying damages. Services include: court-qualified expert witness testimony in quantifying the loss of enjoyment of life (pain and suffering) in personal injury cases and quantifying the loss of love, care, comfort, society, consortium, etc. to the survi-

vors in wrongful death cases. Other litigation support services include analysis and placement of structured settlements, generating wage loss reports that include the present value of future medical expenses and illustrating the loss of quality of life with the LIFE ACTIVITY CALENDAR®.