

## LOS ANGELES JURY AWARDS \$200 MILLION IN PUNITIVE DAMAGES FOR SECONDHAND ASBESTOS EXPOSURE

### *Featured Case*

**Los Angeles, CA:** Robert W. Johnson & Associates was retained to provide economic testimony quantifying the present cash value of economic damages and punitive damages.

**Citation:** Rhonda Evans and Bobby Evans, et al. v. A.W. Chesterton Co., et al., Superior Court of Los Angeles, California, Case No. BC418867. Plaintiffs' attorneys William Levin and partner Laurel Simes of Levin, Simes, Kaiser & Gornick, LLP, San Francisco, California. The judge was the Honorable Conrad Aragon.

**Case Synopsis:** Mrs. Evans contracted mesothelioma from the asbestos dust that her husband brought home on his work uniform every day during the early 1970s. At the time, Mr. Evans was an employee of the Los Angeles Department of Water and Power and his regular job duties included cutting asbestos cement pipe within both the City and County of Los Angeles.

Neither Mrs. Evans nor Mr. Evans was aware of the asbestos hazard at the time. CertainTeed manufactured the asbestos cement water pipe. CertainTeed knew about the risk of getting mesothelioma from the release of asbestos fibers while cutting its water pipe. CertainTeed also knew about the risk of getting mesothelioma when exposed in low doses and was aware of the risk to household members from exposure to clothes of family members working with their product. CertainTeed failed to warn users of the mesothelioma risk.

Mrs. Evans, in addition to caring for her husband, had  
*(Continued on page 2)*

### IN THIS EDITION

**Page 1** Featured Case

**Page 1** Structured Attorney Fees

**Page 4** 2012 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, you already know that your fees can be unpredictable. You cannot be sure when cases will arrive or when they will conclude, which makes it challenging to manage your cash flow. When your fees do 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.*



## JURY AWARDS \$200 MILLION IN PUNITIVE DAMAGES

*(Continued from page 1)*

taken on the task of raising her granddaughter after the death of her daughter. The granddaughter was a type II diabetic and required special monitoring to prevent her diabetes from becoming uncontrollable.

**Expert Testimony:** In this case, Mr. Johnson was retained to testify regarding two elements of damages, compensatory and punitive.

First, Mr. Johnson testified as to Mrs. Evans' loss of income, the value of her attendant care to her granddaughter and the loss of household services. Mr. Johnson calculated the present cash value of these damages to be between \$800,000 and \$1,050,000 over Mrs. Evan's normal life expectancy.

**Compensatory Result:** On April 28, 2010, after nearly a four week trial, the jury returned a verdict of \$6.8 million for Mrs. Evans and \$2 million for loss of consortium for Mr. Evans.

**Punitive Damages Testimony:** Mr. Johnson was then asked to return the day after the verdict to testify as to punitive damages. In this phase, Mr. Johnson's primary task was to frame, in economic terms, the "financial condition" of CertainTeed Corporation, a wholly owned subsidiary of Saint-Gobain. The term "financial condition" encompasses the areas of financial health, wealth and economic status.

CertainTeed never provided financial statements that would have allowed Mr. Johnson to opine as to their complete financial condition, so he had to look to the financial statements of the parent company, Saint-

Gobain. In reviewing Saint-Gobain's financials, none of CertainTeed's financial statements (balance sheet, income statement, etc.) were delineated in Saint-Gobain's consolidated financials. But through rigorous digging in Saint-Gobain's financial documents, Mr. Johnson was successful in finding two critical financial elements that applied to CertainTeed Corporation.

First, in 2008 CertainTeed had approximately \$3 billion in Sales or more than \$8.0 million per day. Second, Saint-Gobain had a "Reserve for Asbestos Related Claims Against CertainTeed" of more than \$500 million in 2008 and 2009.

Mr. Johnson explained to the jury what this meant was that Saint-Gobain had acknowledged and put aside a half billion dollar asbestos reserve for potential future settlements of and judgments against CertainTeed.

After Mr. Johnson had testified as to the punitive damages, the jury deliberated for just a few hours before returning a \$200 million verdict for the plaintiffs. This was the fourth largest jury verdict of 2010.

**Attorney's Comments:** According to plaintiffs' counsel William Levin, "Mr. Johnson was provided with very little as to CertainTeed's financials. Parent companies are strategically not supplying the financials of their wholly-owned subsidiaries so that the juries can not accurately assess a complete picture of their wealth. After doing his due diligence, Mr. Johnson found just the wrinkle he needed in finding a footnote in Saint-Gobain's 2009 financial statements that put CertainTeed's wealth into perspective for the jury. Saint-Gobain was able to put aside over a half billion dollars in a 'Reserve for Asbestos Related Claims Against CertainTeed in 2008 and 2009'. I really think this really sealed the fate for CertainTeed and their parent Saint-Gobain".



### The Proper Perspective

"What improves the circumstances of the greater part can never be regarded as an inconveniency to the whole. No society can surely be flourishing and happy, of which the far greater part of the members are poor and miserable." --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.<sup>SM</sup>**) methodology to simplify this comparison for you.

What is the **T.E.G.R.<sup>SM</sup>**? The **T.E.G.R.<sup>SM</sup>** 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.<sup>SM</sup>** 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.

## 2012 Year End Verdicts

| Attorney   | Case   | Case Type                            | Verdict              |
|--|--|--------------------------------------|----------------------|
| Gary A. Wais /<br>H. Briggs Bedigian /<br>Keith Forman   | Martinez, et al. v. Johns Hopkins Hospital, et al.     | PI - Medical Malpractice             | \$55,000,000         |
| John Langdoc /<br>Christine Tamer /<br>Denyse Clancy   | Izell, et al. v. Amcord, Inc.                          | PI - Mesothelioma / Punitive Damages | \$48,000,000         |
| Alejandro D. Blanco /<br>John C. Carpenter /<br>Nicholas C. Rowley /<br>Tiffany T. Chung /<br>Richard P. Poormon | Von Normann v. Newport Channel Inn, Inc., et al.       | PI - Premises Liability              | \$38,628,127         |
| Justin A. Bosl /<br>Joseph Satterley   | Scott, et al. v. Allied Packing & Supply, Inc., et al. | PI - Mesothelioma                    | \$6,825,000          |
| Craig M. Peters /<br>Jessica N. Biernier /<br>S. Anoush Lancaster  | Will, et al. v. Caterpillar, et al.                    | WD - Heavy Machinery Accident        | \$6,702,334          |
| Gilbert L. Purcell /<br>Christopher Hersom   | Melvin Desin v. Kaiser Gypsum, et al.                  | Punitive Damages                     | \$6,000,000          |
| James W. Gustafson, Jr.  | Buchanan v. Philip Morris USA, Inc., et al.            | Punitive Damages                     | \$5,500,000          |
| Dianna Lyons /<br>Frank Fernandez /<br>Mark Swanson  | James Hellam v. Crane Co., et al.                      | PI - Mesothelioma                    | \$5,437,882          |
| Terry O'Reilly /<br>Nina Shapirshteyn  | Stephens v. Fireman's Fund Insurance, et al.           | Insurance Bad Faith                  | \$4,673,000          |
| Anthony S. Petru /<br>Jason J. Romero  | Joseph Winkler v. BNSF, et al.                         | PI - Railroad                        | \$3,852,000          |
| Anthony S. Petru   | Wes Davis v. BNSF, et al.                              | PI - Railroad                        | \$3,000,000          |
| Don A. Ernst /<br>William Brenske  | Dogra, et al. v. Susan Liles, et al.                   | PI - Auto Accident                   | \$2,750,000          |
| Stephen W. Johnson   | Leon Daniels v. Scrivner, et al.                       | PI - Auto Accident                   | \$2,297,000          |
| Steven Healy   | Lovelace v. A.O. Smith Water Products, et al.          | PI - Mesothelioma                    | \$2,072,164          |
| Anthony S. Petru   | Harvell Sumlin v. BNSF, et al.                         | PI - Railroad                        | \$1,300,000          |
| James R. Murphy, Jr.   | Carrie B. Lossing v. Natalia Cordes, et al.            | PI - Auto Accident                   | \$1,166,000          |
| Russell C. Sahlin /<br>William S. Ginsburg   | Willie Barganier v. Hoffman Ranches, et al.            | PI - Automobile v. Horse             | \$853,222            |
| Steven P. Stein /<br>Robert Collins  | Richard Slater v. Abbate, et al.                       | PI - Automobile v. Pedestrian        | \$812,000            |
| Anthony S. Petru   | Sidhu v. Frank-Lin Distillers, et al.                  | PI - Railroad                        | \$580,000            |
| Eric M. Safire   | DeSantis, et al. v. City of Santa Rosa, et al.         | WD - Wrongful Shoot                  | \$511,582            |
| Stephen M. Murphy  | Kranson v. Federal Express Corporation, et al.         | Wrongful Termination                 | \$328,000            |
| <b>Totals</b>  |  |                                      | <b>\$196,288,311</b> |

**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 survivors 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®.