

Products Liability Law Daily Wrap Up, JURY VERDICTS—CHEMICAL PRODUCTS—Pa. Cmmw.: Jury awards \$725M to injured worker in action against benzene-containing product suppliers, (May 13, 2024)

Products Liability Law Daily Wrap Up

By Pankhuri Bhatnagar, B.A. LL.B.

The gasoline products of ExxonMobil Corp. were found to be defective in design and warnings and were a substantial cause of the worker's illness.

In a suit brought against several suppliers of benzene-containing products by a man who allegedly developed leukemia from being exposed to these products during the course of his work, a Philadelphia jury found one of the suppliers—ExxonMobil Corp.—liable for negligence. The worker was awarded \$725,000,000 in damages for his pain, suffering, loss of enjoyment of life, disfigurement, and embarrassment, while his wife was awarded \$500,000 for her loss of consortium claim ([Gill v. ExxonMobil Corp.](#), No. 2005-01803 (Pa. Cmmw. May 9, 2024)).

Background. A man was employed by Painted Post ARCO, Cole's Garage, and Leland Harris Dairy Farm (collectively, employers) in New York and Pennsylvania. During the course of his job, he directly and indirectly worked with and was exposed to, on a daily basis, various benzene-containing products such as penetrating solvents, solvents, adhesives, degreasers, oils, and gasoline (products). The benzene-containing ingredients included xylene, toluene, mineral spirits, hexane, naphthas, ethylbenzene, and other hydrocarbons. As a result of such exposure, the worker developed Acute Myeloid Leukemia (AML). He accordingly brought suit against several companies (collectively, suppliers), alleging that they manufactured, refined, designed, produced, processed, compounded, converted, packaged, sold, distributed, marketed, re-labeled, supplied, and/or otherwise placed into the stream of commerce the benzene-containing products or ingredients.

Parties and jurisdiction. The defendant companies and the benzene-containing products/ingredients they allegedly supplied were: ExxonMobil Corp. (gasoline and solvents); United States Steel Corp. (solvents); Radiator Specialty Co. (liquid wrench); Atlantic Richfield Co. (ARCO) (gasoline); CRC Industries Inc. (cleaner and brake products); Sunoco LLC (owned and operated refineries where benzene products were refined); Safety-Kleen Systems, Inc. (parts-washing machine and solvents); Shell Oil Co. (Pennzoil oils and spirits); Berryman Products, Inc. (carburetor cleaner); Univar Solutions USA Inc. (mineral spirits); Ashland, LLC (mineral spirits); Brenntag Southwest, Inc. (benzene distributor); Union Oil Co. (mineral spirits); Blaster Corp. (air tool conditioner); Illinois Tool Works, Inc. (gaskets); Henkel Corp. (gasket removers); and Root Oil Co. (gasoline). The suit was brought in the Commonwealth of Pennsylvania since every supplier regularly conducted business within the County of Philadelphia, the man was exposed to the harmful products in Pennsylvania, and the injuries were sustained in Pennsylvania.

Complaint allegations. The [complaint](#) alleged that the companies knew that the worker and others similarly situated would work in close proximity to their products; that the workers would be exposed to benzene through inhalation, ingestion, and dermal absorption; and that benzene is dangerous to human health as it causes blood and bone marrow poisoning and damage, damage to DNA, cancer, and other diseases. Thus, Count I asserted that the suppliers were negligent and grossly negligent as they (1) placed benzene-containing products in the stream of commerce; (2) did not adequately warn of the products' benzene content or the health risks to users; (3) failed to inform users and employers of safety methods, protective equipment, or wearing apparel to prevent or curtail exposure; (4) failed to place warnings about the benzene content on the products' containers, packaging, and shipping and billing documents; and (5) did not develop, produce, or sell safer alternative products. Count II asserted that the products were defective at the time they left the suppliers' control and possession since they were unsafe for

their intended uses, lacked the necessary warnings and instructions, failed to meet consumers' safety expectations, and outweighed the benefit, if any, of the products' benzene content. Count III alleged breach of product warranties based on the above defects.

Next, the man submitted that the suppliers committed the intentional tort of battery by knowing that (1) end users would be exposed to benzene during their work duties; (2) there was no safe level of exposure to benzene; (3) their products were inherently defective, ultra-hazardous, deleterious, poisonous, carcinogenic, leukemogenic, and otherwise harmful; (4) their failures to warn of the chemical and to instruct and advise users on safety procedures would continually expose such users; and (5) giving proper warnings would have deterred the sale and use of their products. Notably, ExxonMobil was part of the Manufacturing Chemists Association (MCA), which issued a chemical safety data sheet on the safe handling of benzene in 1960 and recognized the chemical's toxic poisoning effects. In 1977, OSHA issued an Emergency Temporary Standard declaring benzene a known human carcinogen, requiring a cancer warning and reduction in use of benzene, which the suppliers ignored, despite being fully capable of producing safer alternatives, the complaint asserted. ExxonMobil allegedly committed fraud by concealing this knowledge and failing to install vapor recovery systems or respirators at its gasoline service stations, thus endangering the health of millions of people in the U.S. for its financial benefit.

Damages. The worker alleged that as a result of the above acts and omissions of the suppliers, he contracted and suffered from AML, and multiple side effects, conditions, and symptoms caused by AML. The medical treatments caused him pain, suffering, disability, disfigurement, deformity, impairment, mental anguish, anxiety, humiliation, and increased susceptibility to infection. He incurred economic losses and costs for medical treatments, medicines, and hospitalizations. His wife added that she had lost the love, companionship, friendship, society, services, emotional support, and financial support provided by her husband. Accordingly, the couple sought compensation, punitive damages, costs, interest, attorney fees, and delay damages.

Verdict. Following a trial, the jury found that ExxonMobil was negligent as its gasoline products were defective in design and adequate warnings. The worker was exposed to these products while using them in an intended and foreseeable manner. Further, the products were a substantial contributing factor in causing his AML. The other suppliers and the man himself were not found to be negligent. The jury accordingly awarded damages for the man's pain, suffering, loss of enjoyment of life, disfigurement, and embarrassment, amounting to a total of \$725,000,000. His wife was awarded \$500,000 for her loss of consortium claim.

The case is No. [2005-01803](#).

Judge: Jacquinto, C.

Attorneys: Andrew J. DuPont (Locks Law Firm) and Patrick J. Wigle (Waters Kraus Paul & Siegel) for Paul Gill and Diane Gill.

Companies: ExxonMobil Corp.; United States Steel Corp.; Radiator Specialty Co.

MainStory: TopStory JuryVerdictsNewsStory ChemicalNews DesignManufacturingNews WarningsNews
CausationNews GCNNews PennsylvaniaNews

<https://prod.resource.cch.com/resource/scion/document/default/1ld014009717225cb48bab4f031b7d6cede0a?cfu=Legal&cpid=WKUS-Legal-Cheetah&uAppCtx=cheetah>