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Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

3M Wins Trial Over Ship Worker's Faulty Respirator Claims

By **Cara Salvatore**

Law360 (November 9, 2020, 8:37 PM EST) -- A Washington state jury has cleared 3M of liability in a trial alleging its respirators failed to block asbestos particles and protect a Puget Sound Naval Shipyard worker who developed mesothelioma.

The trial, held in person in a convention center in Bellevue, Washington, concerned Larry Roemmich's claims that the company's 8710 respirator mask failed to protect him from the lung disease he now suffers from.

The jury said 3M did not supply respirators that weren't "reasonably safe as designed" and that weren't "reasonably safe because adequate warnings or instructions were not provided." The jury found 3M was negligent but its negligence wasn't a cause of Roemmich's injuries.

The verdict form is dated Oct. 30. It's not clear if it was made public that day or later on.

Roemmich alleged his work at the shipyard in the 1970s and 1980s put him in close contact with asbestos used for insulation. He said he wore the 8710 mask and relied on it to protect him from harm.

But "3M knowingly misrepresented the effectiveness of [the] mask for use with asbestos," Roemmich said in court papers.

Roemmich received his pleural mesothelioma diagnosis in November 2019, he said, after retiring from the shipyard in 1995. For his first four years there, starting in 1968, he worked directly on ships. In 1972, he began a decade in the shipyard's insulation shop, where his days were spent fabricating insulation pads for installation on ships, his court papers said.

"During this 1972 to 1982 time period, Mr. Roemmich was also called out to clean up what were called asbestos 'spills,' any asbestos materials that were discovered, broken, or spilled at the shipyard. When working in [the] fabrication shop and cleaning asbestos spills, Mr. Roemmich used the 3M 8710 mask," the papers said.

Sean Lynch, a spokesman for 3M, said Monday, "3M will vigorously defend its record of responsible product stewardship, as evidenced by the company's success in 15 of the 16 respirator-related cases tried to a jury over the past 20 years." Lynch said the company's "thoughts are with Mr. Roemmich and his family."

Meanwhile, defense lawyer Nancy Ertle told Law360 that at the reconfigured Bellevue Convention Center, which is now being used for civil trials, "Jurors are able to sit in both the 'courtrooms' and the deliberation rooms the proper distance apart. ... The 3M witnesses wore 3M respirators, everyone else wore masks."

Counsel for Roemmich was not immediately available for comment.

Larry Roemmich and wife, Gloria Roemmich, are represented by Chandler Udo of Bergman Draper Oslund Udo PLLC.

3M is represented by Nancy Erfle of Gordon & Rees LLP, Angela Beranek Brandt of Larson King LLP, Byron Miller of Thompson Miller & Simpson PLC and Michael Brooks of Wells Anderson & Race LLC.

The case is Roemmich et al. v. 3M Co. et al., case number 20-2-00926-1, in the Superior Court of Washington for King County.

--Editing by Bruce Goldman.

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