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Jury awards \$38M for asbestos exposure

By [Phillip Bantz](#)
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A jury in Richland County has handed a \$38 million award – one of the largest in recent state history – to a 74-year-old man who claimed that workplace asbestos exposure left him with a rare and potentially fatal form of cancer.

The massive award is being challenged, but if the verdict is upheld it would give Lloyd S. Garvin about \$1 million for each year that he spent as a maintenance man and millwright at various chemical and plastics plants throughout the state from the 1960s through 2000.



As part of his job, Garvin dismantled industrial pumps and valves, which required him to handle corroded gaskets and packing materials made of asbestos. His exposure to asbestos particles led to him being diagnosed last summer with testicular mesothelioma, said one of his attorneys, Theile B. McVey of Kassel McVey in Columbia.

Garvin and his wife initially sued 13 companies that manufacture asbestos pumps and valves, but eight were eventually dismissed as defendants because their products could not be linked to the plants where Garvin worked.

Two of the remaining companies entered into confidential settlements with Garvin, who took the other three, Byron Jackson, Crane Co. and Durco, to trial in the Richland County Court of Common Pleas in late August.

In court, McVey, who tried the case alongside Jessica M. Dean, a partner at Simon, Greenstone, Panatier & Bartlett in Dallas, argued that the defendants had long been aware that the asbestos used in their valves and pumps was hazardous yet did nothing to make their products safer.

"There was testimony that these companies knew about the dangers of asbestos in the 1930s and to this day they maintain that the gaskets and packing material can't hurt people and you could work with them today, all day, every day and still not get sick," McVey said. "I think the jury wanted to send a message that these products weren't safe."

On Sept. 11, jurors awarded Garvin \$10 million in actual damages and \$27 million in punitive damages. They also gave Garvin's wife \$1 million for her loss of consortium claim, based on the removal of one of her husband's testicles in an attempt to keep the cancer from spreading.

Both Crane Co. and Durco were each hit with \$11 million punitive verdicts and Byron Jackson is on the hook for a \$5 million punitive award. Crane Co. is based in

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- [Attorneys – Discipline – Unreasonable Fee – Failure to Respond – Public Reprimand *In re Chaplin*](#) Respondent (1) accepted a \$10,000 fee to attempt to negotiate a sentence reduction, (2) failed to communicate with his client, (3) failed to respond to the Office of Disciplinary Counsel's Notice of Investigation, and (4) did not promptly refund \$7,000 to his client, despite his acknowledgement that he was required to do so.
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Connecticut while Durco and Byron Jackson are subsidiaries of Flowserve, which is headquartered in Texas.

An attorney for Crane Co., Terry Budd of K&L Gates in Pittsburgh, contended that a pair of other now-bankrupt companies, and not his client, actually made the pumps and valves that Garvin had linked to his cancer.

"The verdict is flawed as a matter of law. There was no credible evidence of any exposure to any product from Crane Co.," he said. "The verdict also is legally flawed because the damages awarded were unfounded and excessive under South Carolina law."

Budd and Timothy W. Bouch of Leath, Bouch & Seekings in Charleston, who represented Bryon Jackson and Durco, both said that they would try to get the verdict overturned, either through post-trial motions or, if necessary, an appeal.

"While we respect the trial process," Bouch said, "we strongly believe that there is no evidence to support the verdict."

Both Dean and McVey adamantly disputed Budd's assertion that Crane Co.'s products were not to blame for Garvin's illness. Dean said Garvin's boss and a co-worker testified that Garvin had handled Crane Co. valves, and records from at least one plant where he worked backed up that testimony.

"To me that is one of the things that was remarkably well established," Dean said, "and clearly a jury of 12 people uniformly disagreed with him [Budd]."

Meanwhile, McVey, who said her medical experts believed that Garvin's cancer would likely resurface and that he could die within the next year, was confident that the award would withstand scrutiny.

"I think the trial court will have to review it," she added, "but I think they'll uphold it."

Follow Phillip Bantz on Twitter @SCLWBantz

VERDICT REPORT: ASBESTOS EXPOSURE – NEGLIGENCE

Case name: *Garvin v. AGCO Corporation, et al.*

Injuries alleged: Testicular mesothelioma

Case number: 2012-CP-40-6675

Court: Richland County Court of Common Pleas

Date of verdict: Sept. 11, 2013

Amount: \$38 million (\$11 million actual and \$27 million punitive)

Attorney for plaintiff: Theile B. McVey (Columbia) and Jessica Dean (Dallas)

Attorneys for defendants: Timothy W. Bouch (Charleston), Robert O. Meriwether and James B. Glenn (Columbia), and Terry Budd (Pittsburgh)

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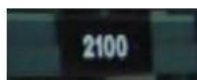
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