

Alvarino F. DaSilva, et al. v. Arvinmeritor, Inc., et al; 2025 LexisNexis Jury Verdicts & Settlements 178

23CV036124

June 20, 2025

Headline: California Jury Returns Defense Verdict In Asbestos Pipe Case

Result: Defense verdict

Injury: Epithelioid mesothelioma

Court: Calif. Super., Alameda Co.

Judge: Mark Fickers

Plaintiff Profile

Alvarino and Dianna J. DaSilva

Defendant Profile

P.E. O'Hair & Co., sued as Westburne Supply Inc

Plaintiff Counsel

Claire C. Weglarz, Macy M. Chan, Theodore E. Roberts and Miles Maurino, Womble Bond Dickinson (US) LLP, San Francisco

Defendant Counsel

David L. Amell, Sean P. Worsey and Tyler S. Summers, Maune, Raichle, Hartley, French & Mudd LLC, Emeryville, Calif.

Case Summary

Claim: Strict liability - failure to warn; Strict liability - design defect; negligence; negligence - failure to warn

Background: Alvarino and Dianna J. DaSilva filed an asbestos action in the Alameda County, Calif., Superior Court asserting that he developed epithelioid mesothelioma at age 61 after exposure to asbestos. Dismissals and

other developments led to the case proceeding to trial against Vanderbilt Minerals LLC and P.E. O'Hair & Co., sued as Westburne Supply Inc.

They brought claims of strict liability - failure-to-warn, strict liability - design defect, negligence and negligence - failure-to-warn.

Other: During trial on May 14, 2025, the defendants moved in limine to preclude the DaSilvas from alleging that Alvarino DaSilva's renal cell carcinoma - commonly referred to as kidney cancer - was related to his asbestos exposure. The defendants told the court that such a claim was time-barred and not properly disclosed.

The applicable statute of limitations is one year, and Alvarino DaSilva was diagnosed more than a year ago, the defendants argued. And the record clearly demonstrates that the DaSilvas have only alleged mesothelioma, the defendants claimed.

In their May 19, 2025, opposition, the DaSilvas said that in its motion, defendant P.E. O'Hair was "asking the Court to tie Plaintiffs' hands behind their back while P.E. O'Hair draws a sword."

In a ruling precluding the DaSilvas from pursuing claims related to kidney cancer, Judge Mark Fickers noted that the DaSilvas contend that expert David Zhang relies on medical records that fall within the business records exemption to hearsay. But despite describing them in general terms, neither party produced the records and they are not before the court. Judge Fickers said he would defer an ultimate ruling on the matter.

The trial proceeded to verdict against P.E. O'Hair only.

On June 20, 2025, the jury found that Alvarino DaSilva did not live in the same household as his brother Joe DaSilva during the time the latter encountered P.E. O'Hair's asbestos pipe. The jury also found that the pipe performed as an ordinary consumer would expect.

The jury then found that the asbestos-containing pipe contained risks known or knowable risks and that the risk posed a substantial danger to users. The jury then concluded that an ordinary consumer would have recognized those risks.

The jury found that P.E. O'Hair was not negligent in supplying the pipe.

As to the failure-to-warn claim, the jury found that P.E. O'Hair knew or should have known that asbestos pipe was dangerous and that users would not realize the danger. The jury also concluded that P.E. O'Hair failed to warn about the danger and that a reasonable supplier would have issued a warning.

But the jury concluded that the failure was not a substantial factor in DaSilva's mesothelioma.

Key Related Documents

Verdict sheet.

Document #01-250709-049V.

Jury instruction.

Document #01-250709-050J.

Tentative ruling on motions in limine.

Document #01-250528-044R.

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