

SCT

IN THE SUPREME COURT OF THE STATE OF MISSISSIPPI

NO. 2010-^{CA}TS-00455

ELSIE SMITH, INDIVIDUALLY AND AS REPRESENTATIVE OF THE ESTATE OF
LARRY D. SMITH, DECEASED, AMY SMITH RHODES, OUIDA SMITH DAWKINS,
LARRY CLINT SMITH, AND BONNIE SMITH WITTY,
Appellants,

v.

UNION CARBIDE CORPORATION, CONOCOPHILLIPS COMPNAY, F/K/A
PHILLIPS PETROLEUM COMPANY, PHILLIPS 66 COMPANY D/B/A DRILLING
SPECIALTIES COMPANY, MONTELLO, INC., AND CHEVRON PHILLIPS
CHEMICAL COMPANY, LP,
Appellees.

ON APPEAL FROM THE CIRCUIT COURT
OF SMITH COUNTY, MISSISSIPPI

BRIEF OF APPELLANTS

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ORAL ARGUMENT REQUESTED

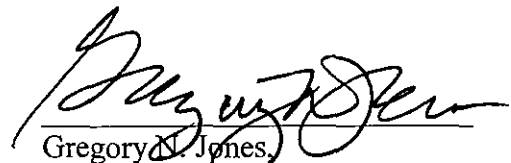
CERTIFICATE OF INTERESTED PERSONS

The undersigned counsel of record certifies that the following listed persons have an interest in the outcome of this case. These representations are made in order that the justices of the Supreme Court and/or the judges of the Court of Appeals may evaluate possible disqualifications or recusal.

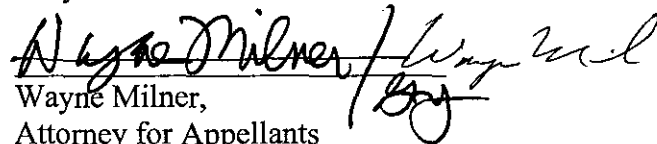
1. Elsie Smith, Individually and as Representative of the Estate of Larry D. Smith, Deceased – Plaintiff/Appellant.
2. Amy Smith Rhodes, adult child of Larry Smith – Plaintiff/Appellant.
3. Ouida Smith Dawkins, Larry Clint Smith and Bonnie Smith Whitty, adult children of Larry Smith – Plaintiffs/Appellants.
4. Union Carbide Corporation – Defendant/Appellee.
5. ConocoPhillips Company f/k/a Phillips Petroleum Company, Phillips 66 Company d/b/a Drilling Specialities Company – Defendants/Appellee.
6. Chevron Phillips Chemical Company, LP – Defendant/Appellee.
7. Montello, Inc. – Defendant/Appellee.
8. Mr. Gregory N. Jones – Counsel for Elsie Smith, Individually and as Representative of the Estate of Larry D. Smith, Deceased, and Amy Smith Rhodes.
9. Mr. S. Robert Hammond, Jr. – Counsel for Elsie Smith, Individually and as Representative of the Estate of Larry D. Smith, Deceased, and Amy Smith Rhodes.
10. Mr. Eugene C. Tullos – Counsel for Elsie Smith, Individually and as Representative of the Estate of Larry D. Smith, Deceased, and Amy Smith Rhodes.
11. Mr. Wayne Milner – Counsel for Ouida Smith Dawkins, Larry Clint Smith and Bonnie Smith Whitty, adult children of Larry Smith, Deceased.
12. Marcy B. Croft – Counsel for Union Carbide Corporation.
13. Kevin Jordan – Counsel for Union Carbide Corporation.
14. Mr. Michael Terry – Counsel for Union Carbide Corporation.
15. Mr. J. Jeffrey Trotter – Counsel for ConocoPhillips Company f/k/a Phillips Petroleum Company, Phillips 66 Company d/b/a Drilling Specialities Company and Chevron Phillips Chemical Company, LP.

16. Mr. Alex E. Coscullela – Counsel for ConocoPhillips Company f/k/a Phillips Petroleum Company, Phillips 66 Company d/b/a Drilling Specialities Company and Chevron Phillips Chemical Company, LP.
17. Mr. Jeffrey P. Hubbard – Counsel for Montello, Inc.
18. Mr. Andrew S. Hartman – Counsel for Montello, Inc.
19. The Honorable Robert Evans, Deceased – Circuit Court Judge

Signed on this the 10th day of December, 2012.



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Amy Smith Rhodes



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STATEMENT OF THE ISSUES

1. **The trial court erred by granting Appellees' motion for judgment notwithstanding the verdict because more than sufficient evidence supported the jury's verdict.**

STATEMENT OF THE CASE

Larry Smith worked in the drilling industry from 1966 to the mid-1980's. During his career, Mr. Smith was exposed to drilling mud additives that were essentially 100% asbestos sold in fifty pound bags. This case stems from Mr. Smith's tragic death from lung cancer due to his exposure to the asbestos drilling mud additives that were manufactured, distributed, marketed, and/or sold by the Appellees/Defendants. The evidence established that Appellees' distributed their asbestos drilling mud additives knowing that workers exposed to their products could get asbestosis, lung cancer and mesothelioma.

In May 2009, this case was tried to a jury. After three weeks of testimony, the jury returned a verdict in favor of Plaintiffs and assessed total damages in the amount of \$3,856,346.17. On July 7, 2009, the Circuit Court entered judgment in favor of Plaintiffs in accordance with the jury's verdict. Tr. 11186, attached hereto as Exhibit A. Thereafter, the parties filed various post-judgment motions, responses and replies. On December 29, 2009, the trial court sent the parties a letter advising of his decision to enter Judgment Not Withstanding the Verdict ("JNOV") based his conclusion that "the plaintiff (sic) failed to establish by a preponderance of the evidence that he was exposed to asbestos containing products with such frequency, proximity, and duration as to cause the injuries." Tr. 11658. On January 26, 2010, the Circuit Court entered a JNOV. Tr. 11660. Plaintiffs appeal the Circuit Court's ruling based on the Court's erroneous entry of the JNOV.

STATEMENT OF THE FACTS

Evidence presented at trial by Mr. Smith's co-workers and various expert witnesses easily satisfied the "frequency, regularity, and proximity" test, as described above. The asbestos products of CP are Flosal and Visquik. The asbestos products of Montello and UCC are Visbestos and Super Visbestos. CP and UCC both supplied asbestos for IMCO Best, Shurlift and Superbest.

The co-workers' testimony is evidence that definitively establishes that Mr. Smith worked with the asbestos drilling mud products produced by the Defendants, including in enclosed mud rooms. In addition, circumstantial evidence supports Mr. Smith's exposure to the products based on co-worker testimony about the use of the products on the same rig that Mr. Smith worked on, which operated twenty-four hours a day. There was no evidence to support the notion that different viscosifiers were used on the rigs when the co-workers worked different shifts than Mr. Smith or that asbestos was cleaned out of the mud rooms by the time of Mr. Smith's shift. Moreover, there was also testimony from experts that supported the reality of Mr. Smith's asbestos exposure.

The evidence was relied on by the jury and clearly satisfied the "frequency, regularity, and proximity" standard adopted in Mississippi. The referenced testimony makes clear that Mr. Smith and the witnesses were exposed "to a specific product on a regular basis over some extended period of time in proximity to where the plaintiff actually worked."

SUMMARY OF THE ARGUMENT

The evidence of Mr. Smith's exposure to Appellees' asbestos products clearly supported the jury's verdict and should be upheld pursuant to Mississippi law. The first Judgment entered by the Circuit Court should be reinstated.

ARGUMENT

I. The trial court erred by granting Appellees' motion for judgment notwithstanding the verdict.

The standard of review of a trial court's grant of a motion for judgment notwithstanding the verdict is *de novo*. *Watts v. Radiator Specialty Co.*, 990 So.2d 143, 150 (Miss. 2008). "The motion for [JNOV] tests the legal sufficiency of the evidence supporting the verdict. It asks the Court to hold, as a matter of law, that the verdict may not stand." *Id.* (quoting *Jesco, Inc. v. Whitehead*, 451 So.2d 706, 713 (Miss. 1984)). As the basis for his order granting the Defendants' motion for judgment notwithstanding the verdict, the trial judge stated:

The evidence presented at trial with respect to the plaintiffs' decedent Larry Smith's occupational exposure to asbestos consisted of the testimony of co-workers Howard Case, Denver Anding, Billy Jack Graves and Joe Fitzhugh. Taken as a whole, this testimony was insufficient to establish that plaintiffs' decedent was exposed to any asbestos product of any defendant on a frequent and regular basis in proximity to where Smith actually worked. Thus, plaintiffs' [sic] failed to meet their burden of proof with respect to causation as set out in *Gorman-Rupp, supra*.

(CR Vol. LXXVIII, pgs. 11660-61).

The "frequency, regularity, and proximity" test regarding a claimant's exposure is the correct test to be applied to asbestos litigation in Mississippi. *Gorman-Rupp Company v. Hall*, 908 So.2d 749, 757 (Miss. 2005). In *Gorman-Rupp*, summary judgment was granted because there was *no* evidence to demonstrate that the plaintiff had *ever* been exposed to any of Gorman's asbestos products. In fact, there was *no* evidence that Gorman's products were ever present at the plaintiff's work site. *Id.*

The Mississippi Supreme Court later added product identification to the "frequency,

regularity, and proximity” test.¹ *Monsanto Company v. Hall*, 912 So.2d 134, 137 (Miss. 2005). In *Monsanto*, plaintiff failed to identify the defendant’s product as being a product to which he was exposed. The Court thus found that summary judgment was appropriate. *Id.*

In *Gorman-Rupp*, the Court referenced, among other cases, the *Lohrmann* case which stands for the proposition that there must be exposure to a specific product on a regular basis over some extended period of time in proximity to where the plaintiff actually worked. See *Lohrmann v. Pittsburgh Corning Corp.*, 782 F.2d 1156 (4th Cir. 1986). This *Lohrmann* standard of “frequency, regularity, and proximity” is the legal standard in Mississippi. *Monsanto*, 912 So.2d 134.²

Evidence presented at trial by Mr. Smith’s co-workers easily satisfied the “frequency, regularity, and proximity” test, as described above. The asbestos products of CP are Flosal and Visquik. The asbestos products of Montello and UCC are Visbestos and Super Visbestos.³ CP and UCC both supplied asbestos for IMCO Best, Shurlift and Superbest. A summary of the testimony from these witnesses illustrates this point.

1. Howard Case

¹ There is no requirement in Mississippi that Plaintiff detail defendant-specific evidence quantifying dose. Despite this, Defendants made a number of arguments regarding this issue, citing cases from other jurisdictions, such as *Borg-Warner Corp. v. Flores*, 232 S.W.3d 765 (Tex. 2007), which unlike Mississippi have not adopted the *Lohrmann* standard of “frequency, regularity and proximity.” Given that this case is pending in Mississippi, the clear and consistent law of Mississippi should be applied.

² A subsequent opinion from the Fourth Circuit, where *Lohrmann* was decided, stated that the *Lohrmann* standard was met if a co-worker testified that the deceased worked for nine months around pipes that had asbestos covering. *Haislip v. Owens-Corning Fiberglas Corporation*, 86 F.3d 1150, 1162 (4th Cir. 1996).

³ Montello argues that it is entitled to a judgment notwithstanding the verdict with respect to products it sold in the late 1960s. However, given the testimony detailed below, including the testimony of Joe Fitzhugh, Mr. Smith was exposed to Visbestos during the relevant time periods. Montello is accordingly not entitled to a judgment notwithstanding the verdict.

- Mr. Case first worked with Mr. Smith at Barnwell in 1966. Mr. Smith would mix mud when they were rigging up and mix spud mud by himself sometimes depending on how busy they were. (TT II 139:17-25, 140:1-16).
- Mr. Case saw Mr. Smith mix FLOSAL at Barnwell. (TT II 145:24-147:5).
- Mr. Case saw Mr. Smith mix FLOSAL at Reading & Bates in 1967 and 1968. (TT II 148:9-14).
- Mr. Case worked with Mr. Smith at Big Chief in 1972 and saw Mr. Smith mix Super Visbestos at Big Chief. (TT II 149:12-20, 150:50-22).
- Mr. Case recalls using FLOSAL at Big Chief. (TT II 151:7-9).
- As a driller at Big Chief, Mr. Smith would often mix mud as relief for the mud man. (TT II 153:2-15).
- At Big Chief, Mr. Case recalls using “a lot” of bags of FLOSAL, Visbestos, and Super Visbestos. (TT II 153:16-19).
- Mr. Case worked with Mr. Smith at Helmerich & Payne in 1973 and 1974 and used FLOSAL, Visbestos, and Super Visbestos. (TT II 153:23-154:24).
- Mr. Case and Mr. Smith worked with and used IMCO Superbest and Surelift. (TT II 155:21-157:4).
- Mr. Case and Mr. Smith worked with and used Visquick on drilling rigs. (TT II 161:7-15).
- As a relief toolpusher, Mr. Case recalls Mr. Smith mixing mud with the chemicals. (TT II 161:25-162:11).

2. Billy Jack Graves

- Mr. Graves worked with Mr. Smith on offshore rig Delta Rig 56 in 1976. (TT III 142:10-12; 151:21-24).
- Mr. Graves worked with Visbestos, FLOSAL, Surelift, Super Best, and Visquick. (TT III 142:18-24).
- Mr. Graves testified that Mr. Smith worked “all the time,” rarely had a few days off, and would come down and watch him pour these products in the hopper regularly. (TT III 144:10-145:5).
- Mr. Graves testified that Mr. Smith would stand next to the hopper to make sure the mixing was done correctly. (TT III 146:25-147:16).
- Mr. Graves testified that Mr. Smith would stand next to the hopper and breathe the dust. He testified that “there was dust everywhere” and that there was no way to avoid breathing it. (TT III 148:4-25).
- Mr. Graves testified that to mix spud mud, it may take one hundred fifty-pound bags of asbestos drilling mud products. (TT III 145:6-146:5).
- Mr. Graves testified that for a pill or a sweep to get the cuttings to the top, it took from fifteen to 25 bags of asbestos drilling mud products. (TT III 145:6-8).

- Mr. Graves testified that Mr. Smith would often be at the hopper watching him mix mud. (TT III 146:25-147:11).
- Mr. Smith would help mix mud as well. (TT III 148:4-10).
- Mr. Graves and Mr. Smith worked with Visbestos, FLOSAL, Surelift, Super Visbestos, and Visquick. (TT III 157:18-158:2).
- Mr. Smith would be down by the hopper a lot during loss of circulation and checking the viscosity at the tank right above the hopper. (TT III 158:3-159:20).
- Mr. Graves recalls using Visbestos, IMCO Best, IMCO Surelift, FLOSAL, and Visquick at Delta Rig 56 with Mr. Smith. (TT III 189:5-16).

3. Denver Anding

- Mr. Anding worked with Mr. Smith in the late 1960's at Marlin Drilling. They were on opposite shifts. (TT III 211:18-212:12).
- Mr. Smith was a roughneck and worked in the mud room. (TT III 213:7-11).
- Mr. Anding recalls using FLOSAL.⁴ (TT III 223:1-4).
- Mr. Anding would go through the mud room on Mr. Smith's shift. (TT III 226:4-8).
- Mr. Smith had to mix mud and did not have any help. He mixed FLOSAL about every day. (TT III 226:15-227:22).
- Mr. Anding saw Mr. Smith mix FLOSAL material on at least 5 occasions. (TT III 233:9-13).
- Mr. Anding saw Mr. Smith use FLOSAL for spud mud as well as regular drilling mud. (TT III 236:18-24).
- Marlin Drilling never warned them about the dangers of the products. (TT III 247:25-248:4).

4. Joe Fitzhugh

- Mr. Fitzhugh worked with Mr. Smith in Smith County near Raleigh with Reading & Bates in the late 1960s. (TT IX 60:1-8, 17-22).
- Mr. Fitzhugh and Mr. Smith were both roughnecks. (TT IX 62:12-19).
- Mr. Fitzhugh and Mr. Smith both mixed mud and used FLOSAL, Visbestos, and Visquick. (TT IX 62:24-63:8).
- Mr. Fitzhugh testified that one of them would cut the bags and the other would tote the bag and dump it into the hopper. Mr.

⁴ Although Mr. Anding mispronounced the name of the particular product, mistakenly referring to it as "flo" or "Flomite," he correctly identified FLOSAL through a visual identification of a bag of FLOSAL.

Fitzhugh testified that it was “always dusty” when they performed these tasks. (TT IX 64:13-65:2).

- Mr. Fitzhugh also worked with Mr. Smith at Big Chief for about a year in the late 1960s, where they mixed FLOSAL, Visbestos, and Visquick. (TT IX 62:2-12, 65:3-13, 66:20-25).]
- At Big Chief, Mr. Smith was a roughneck and then became a derrick hand. (TT IX 66:1-3).
- Mr. Smith w mixed products once a day, but sometimes skipped a day. (TT IX 67:19-68:1).
- During that year, they started four wells. For those wells, they would use 300 bags of the products to make spud mud in the four tanks. (TT IX 68:5-14).
- When they were toting bags to the hopper, they carried them in their arms or on their shoulders. (TT IX 70:5-11).
- They were never provided respirators. (TT IX 70:12-15).
- When they carried the bags to the hoppers, some of the bags would be busted open, but they used them anyway. (TT IX 71:18-72:4).
- These products were mainly used to bring cuttings out of the hole. They would use three to five bags of asbestos drilling mud additives to mix a slug before pulling pipe. (TT IX 74:8-22).

The co-worker testimony summarized above definitively establishes that Mr. Smith worked with the asbestos drilling mud products produced by the Defendants, frequently in enclosed mud rooms. In addition, circumstantial evidence supports Mr. Smith’s exposure to the products based on co-worker testimony about the use of the products on the same rig that Mr. Smith worked on, which operated twenty-four hours a day. There was no evidence to support the notion that different viscosifiers or drilling fluid thickeners were used on the rigs or that asbestos was cleaned out of the mud rooms by the time of Mr. Smith’s shift. The evidence was relied on by the jury and clearly satisfied the “frequency, regularity, and proximity” standard adopted in Mississippi. The referenced testimony makes clear that Mr. Smith and the witnesses were exposed “to a specific product on a regular basis over some extended period of time in proximity to where the plaintiff actually worked.”

Moreover, there was also testimony from experts that supported the reality of Mr. Smith’s asbestos exposure. The evidence at trial overwhelmingly supported the jury’s

conclusion that Defendants' asbestos products caused asbestos-related disease, including Mr. Smith's lung cancer. (TT IV 143-153; 156-157). For example, Dr. Edwin Holstein testified that from his interview of people who used asbestos mud additives, his knowledge of how they were used in the oil field, as well as the above referenced co-worker testimony, he had no doubt that Mr. Smith was exposed to enough asbestos to cause disease. (TT IV 128:7-130:5, 132:12-133:14).⁵

Defendants argued post-trial that Plaintiffs were required to establish Mr. Smith's "dose history" or prove doubling of the risk. In response, Plaintiffs pointed out that the Helsinki Criteria -- to which Defendants unequivocally endorse -- do not require proof of a doubling of the risk or a 25 fiber-year dose when an underlying asbestosis diagnosis has been made. UCC Ex. 503 at 312 ("mild fibrosis may occur at lower exposure levels," thus, there is no dose year criteria for "doubling of the risk"); TT V 118:25-119:13.

Pursuant to the Helsinki Criteria, Dr. Holstein testified that the diagnosis of the disease of asbestosis, or the presence of fibrosis (scarring) of the lungs, is an indicator of high exposure to asbestos and supports that the lung cancer was caused by asbestos. TT VII 59:19-60:21. Dr. Roggli, the Defendants' medical expert concurred and testified that asbestosis is indicative of a doubling of the risk and, without such a diagnosis, one would need a dose history. TT VI 109:1-16. Dr. Mark Colella testified that Helsinki requires one of three things: a diagnosis of asbestosis; bilateral diffuse pleural thickening; or a cumulative exposure history sufficient to double the risk. Because Plaintiffs presented the expert testimony of Dr. Colella, who found an underlying diagnosis of asbestosis in Mr. Smith, the established methodology and state of the art do not require any further proof of doubling of the risk. UCC Ex. 503 at 314. ("The presence of

⁵ Dr. Holstein also testified that by 1980, the Government had determined that all commercial asbestos causes lung cancer. (TT V 120:14-121:14). Dr. Holstein also testified that chrysotile asbestos, with or without tremolite, causes disease in humans. (TT IV 87:16-88:21).

asbestosis is an indicator of high exposure Asbestosis diagnosed clinically, radiologically (including HRCT), or histologically can be used to attribute a substantial causal or contributory role to asbestos for an associated lung cancer.")

Finally, Dr. Holstein quantified Mr. Smith's dose exposure to be anywhere from over ten fibers/cc to fifteen to twenty fibers/cc. (TT IV, 129:12-24). Dr. Holstein's calculation was based on 1) his expert knowledge of asbestos concentrations that occur when bags of powdered asbestos are carried and leak; 2) air measurements taken when one pours asbestos into hoppers; 3) published dust measurement in industries he has studied; 4) occupational histories from roughnecks who performed similar work to Mr. Smith; and 5) memorandums introduced at trial that he had previously reviewed. (TT IV 131:14-25, 132:1-10).

The jury considered the weight of the evidence in light of Defendants' cross-examination. There was more than sufficient evidence of Mr. Smith's exposure to Defendants' products.

CONCLUSION

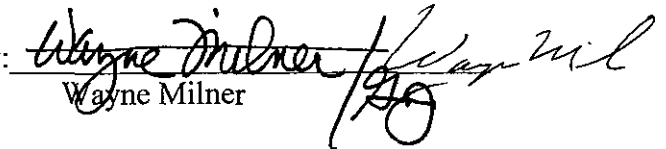
For the reasons stated above, Appellant asks this Court to reverse the trial court's entry of a judgment notwithstanding the verdict and remand this case to the Circuit Court for entry of judgment in accordance with the jury findings and such other further proceedings as are required.

Respectfully submitted,

ELSIE SMITH, INDIVIDUALLY AND AS
REPRESENTATIVE OF THE ESTATE OF
LARRY D. SMITH, DECEASED, AND AMY
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CERTIFICATE OF SERVICE AND FILING

I, Gregory N. Jones, do hereby certify that I have delivered a copy of the foregoing instrument to the following, to be hand-delivered, via Federal Express Mail the original and three copies of the Brief of Appellants and a condensed disk of same for filing to:

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I certify that I this day mailed by United States Certified Mail, postage prepaid, a true and correct copy of the above Brief of Appellants to the following:

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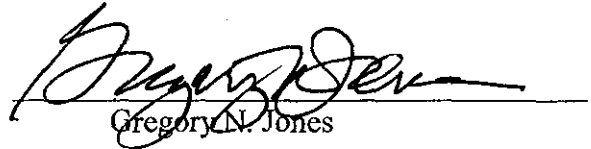
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This the 10th day of December, 2012.


Gregory N. Jones

IN THE CIRCUIT COURT OF SMITH COUNTY, MISSISSIPPI

ELSIE SMITH, INDIVIDUALLY AND AS
REPRESENTATIVE OF THE ESTATE OF
LARRY D. SMITH, DECEASED

PLAINTIFF

vs.

CIVIL ACTION NO. 2006-212

PHILLIPS 66 COMPANY, et al.

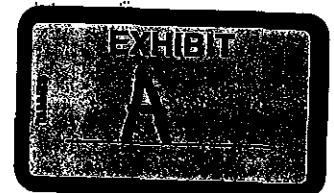
DEFENDANTS

JUDGMENT ON JURY VERDICT

On Monday, May 11, 2009, this cause came on for trial before the Court, the Honorable Robert G. Evans presiding, and the Plaintiffs and Defendants appearing in person and by and through counsel and announcing ready for trial; whereupon a jury composed of Willis R. Prine and eleven other good and lawful electors was duly impaneled and sworn to try the issues joined, and the Court and jury having heard all the evidence and testimony adduced by the parties, and having received the instructions of the Court, and the jury having retired at approximately 12:30 p.m. on Wednesday, May 27, 2009, to consider its verdict, and after due and proper deliberations having returned into open Court its verdict for the Plaintiffs and assessing total damages as economic damages of \$106,346.17 and non-economic damages as \$3,750,000.00 for total damages of \$3,856,346.17, and further assessing liability therefore as follows:

CPCHEM	35%
MONTELLO	10%
UNION CARBIDE	35%
SMOKING	20%

IT IS THEREFORE ORDERED AND ADJUDGED that Final Judgment, after 20% deduction per the verdict, be and the same is herewith entered in favor of the Plaintiffs and shall recover from the Defendants as follows:



- 1) Phillips 66 Company, individually and d/b/a Drilling Specialties Company; Phillips Petroleum Company, individually and d/b/a Phillips 66 Company and/or d/b/a Drilling Specialties Company; Drilling Specialties Company, L.L.C. a/k/a DSC Drilling Specialties Company, L.L.C.; Conoco Phillips Company, individually and as Successor by merger to Phillips 66 Company, Phillips Petroleum Company and Drilling Specialties Company – Severally for non-economic damages in the amount of \$1,312,500.00 and economic damages of \$37,221.16 and is jointly liable with Union Carbide Corporation for an additional economic damage of \$15,951.92, all of which is together with legal interest until paid, and all costs of Court accruing herein all for which let execution or other proper process issue.
- 2) Union Carbide Corporation - Severally for non-economic damages in the amount of \$1,312,500.00 and economic damages of \$37,221.16 and is jointly liable with Phillips 66 Company, individually and d/b/a Drilling Specialties Company; Phillips Petroleum Company, individually and d/b/a Phillips 66 Company and/or d/b/a Drilling Specialties Company; Drilling Specialties Company, L.L.C. a/k/a DSC Drilling Specialties Company, L.L.C.; Conoco Phillips Company, individually and as Successor by merger to Phillips 66 Company, Phillips Petroleum Company and Drilling Specialties Company for an additional economic damage of \$15,951.92, all of which is together with legal interest until paid, and all costs of Court accruing herein all for which let execution or other proper process issue.
- 3) Montello, Inc. – Severally liable for economic and non-economic damage of \$385,634.62, together with legal interest until paid, and all costs of Court accruing herein all for which let execution or other proper process issue.

SO ORDERED AND ADJUDGED on this the 7 day of July, A.D., 2009.

CIRCUIT JUDGE

A handwritten signature in black ink, appearing to read "Robert E. ...", is written over a horizontal line. The signature is written in a cursive style.