

# Chicago Daily Law Bulletin®

Volume 155, No. 62

Tuesday, March 31, 2009

## \$6M accord reached in workers' deaths in oil refinery fire

By John Flynn Rooney  
Law Bulletin staff writer

A lawsuit filed on behalf of the families of two workers killed in a suburban industrial accident has settled for \$12 million, plaintiff lawyers said Tuesday.

The underlying case stemmed from a March 1995 fire at an oil refinery in Blue Island that led to an Illinois Supreme Court decision in early 2007. The justices embraced the doctrine of "direct participant liability" and allowed a pair of plaintiffs to proceed with their lawsuit aimed at holding a parent corporation directly liable for its subsidiary's negligence — without requiring the plaintiffs to pierce the corporate veil. *Forsythe, et al. v. Clark USA Inc.*, 224 Ill.2d 274 (2007).

The high court upheld a 1st District Appellate Court decision that reversed a trial court's ruling and acknowledged for the first time a "direct participation" exception. *Forsythe, et al. v. Clark USA Inc.*, 361 Ill.App.3d 642 (2005).

The estates of Michael F. Forsythe and Gary Szabla each were awarded \$6 million under the settlement, according to plaintiff attorneys. The men, who worked as maintenance mechanics at Clark Refinery's facility in the southwest suburb, were killed in the fire.

Their widows alleged that cost-cutting by the parent company, Clark USA, resulted in dangerous conditions that led to the fatalities.

As a result of deep budget cuts, the plaintiffs

asserted, two untrained workers caused the explosion when they began dismantling a pipe without determining whether it was pressurized.

Szabla, 37, was the father of two young children. Forsythe, 50, was survived by his widow and three children.

After the high court's ruling, the case returned to the Cook County Circuit Court.

The matter was mediated earlier this year by Donald P. O'Connell, a former chief judge of Cook County, plaintiff attorneys said. *Forsythe, et al. v. Clark USA*, No. 07 L 9909.

On Monday, Circuit Judge Thomas P. Quinn entered a dismissal order in Forsythe's case, according to the Forsythe family's attorney, Martin J. Healy Jr. David P. Huber, a member of The Healy Law Firm Ltd., also represents Forsythe's estate.

Quinn is expected to enter a dismissal order in Szabla's case within the next week, said Edward G. Willer, an associate with Corboy & Demetrio P.C. in Chicago, representing Szabla's family.

"Without the Supreme Court's decision affirming the Appellate Court's decision in which Illinois now recognizes direct participant liability, no recovery would have been made by either estate," Willer said on Tuesday.

Clark USA is represented by Russell R. Eggert, a partner with Reed, Smith LLP's Chicago office; James E. Bennett, a principal of Dowd, Bennett LLP in St. Louis, and several lawyers with Mayer, Brown LLP.