

"Chem-Plant Blast Yields \$7.6 Million Settlement - Finally"

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This time - 34 years after a dust explosion at a suburban grinding mill - the resulting legal case is definitely over.

On Thursday, defendant Swift & Co. paid the \$6.2 million jury verdict, plus interest and costs, to plaintiffs Izzie Baylie and the estate of his brother, Forrest Bailey, both of whom were injured in a 1963 chemical dust explosion in Oak Lawn.

The brothers were employees of A. Cramer Co. in the southwest suburb when the accident occurred. They were grinding and bagging calcium stearate, a water-proofing agent manufactured by Swift, when a spark from an unknown origin triggered an explosion that left both of them severely burned.

In 1964, Chicago attorney Leonard M. Ring filed suit on behalf of the brothers, who claimed that no one at the grinding mill had been alerted by Swift that calcium stearate was explosive when in powder form.

Swift won a directed verdict at trial in 1971, but Ring appealed and the Illinois Appellate Court reversed the verdict and sent the case back to the trial court in 1975.

For the next 19 years, until Ring died in 1994, the case languished, according to Thomas A. Demetrio, who took over the case after Ring's death.

"From 1975 until 1994 there wasn't much activity done in this case," Demetrio said Friday. "From time to time, the subject of settlement between the parties was broached, but nothing concrete. Indeed, the very week that Leonard died there was to be a settlement conference."

Attorneys

- Thomas A. Demetrio

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Demetrio retried the case trial in August 1994 before Cook County Circuit Judge Leonard R. Grazian of the Law Division, and received a jury verdict of \$6.2 million in favor of their clients.

"The fact of the matter is - not to sound corny - that I have a great deal of confidence in the civil jury system, and I don't think the jury concerned itself with 'Why in the world has this taken so long?' " Demetrio said.

Attorneys for Swift appealed the 1994 verdict, arguing that the trial court had erred in denying their motion to dismiss, based on the doctrine of laches, among other points, Demetrio said. The Illinois Appellate Court affirmed the trial court ruling two years later, and Swift petitioned to the Illinois Supreme Court for leave to appeal. The high court denied the petition late last month.

Including interest and court costs, the total amount paid to the plaintiffs Thursday was \$7.6 million, Demetrio said.

The firm said there were several hurdles to overcome in taking on a case that was so old. First, several of the witnesses in the first trial had died, he said, adding that he and Demetrio were allowed to read their original testimony into the record.

Another problem was that comparative-negligence law had changed twice since 1963.

"We had to tract back to see what the law was, then we had to research to find out what kind of law applied." the firm said.

Bailey died in 1968 at the age of 58 due to causes unrelated to the explosion. Baylie, now 69, lives in Chicago with his wife.

The two had different spellings for their last names because of a clerical error that was made when they joined the U.S. Army, Demetrio said.

Swift was represented by D. Patterson Gloor, David C. Van Dyke and Jennifer A. Keller, all of Cassidy, Schade & Gloor.

Keller said Friday afternoon that she and her colleagues have no comment on the case.

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