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Backgrounder: The Implausible Garlock Asbestos Decision

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INTRODUCTION/SUMMARY

In January 2014, a new ruling was issued[2] in an asbestos case involving Garlock Sealing Technologies, one of the world's largest asbestos-containing gasket and packing manufacturers. Asbestos gaskets are used in pipes and valves that transport hot fluids – so hot, in fact, that the gaskets often disintegrate and require replacement. The use of Garlock's products was widespread and impacted vast numbers of people who were required to work on them, including many Navy service members on ships and submarines.

Asbestos is a deadly toxin that kills about 10,000 Americans each year from diseases like mesothelioma. This particular case involved over 4,000 mesothelioma victims and "an unknown number of victims who will develop mesothelioma in the future." As noted by the Court mesothelioma "is always fatal, causing death essentially by suffocation within about eighteen months of diagnosis" and involves "a horrific death."

Garlock was an early, major player in the asbestos industry.[3] It was well aware of the lethal nature of its products, with Garlock asbestos disease and mesothelioma workers compensation claims beginning in the 1940's all the way through the 2000's. It warned companies that inhalation of airborne fibers from its gaskets could cause "well-known long term effects of

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[2] Order Estimating Aggregate Liability, *In re Garlock Sealing Technologies, LLC, et al.*, Case No. 10-31607 (Bankr. W.D.N.C. Jan. 10, 2014)

[3] In 1944, Garlock participated in the founding of the Asbestos Textile Institute.

Asbestosis, lung cancer and mesothelioma."[4] It was worried enough about asbestos exposure from its products that in the 1970's, it began producing asbestos-free gaskets, referenced in a brochure called "It's Time to Stop Using Asbestos. And Nobody Has Been More Aware of it Than Garlock."[5] Unfortunately, Garlock failed to take its own advice.

Like many companies that have chosen for decades to use asbestos in its products,[6] Garlock filed under a special section of the bankruptcy code that allows a company to set aside money in a trust to compensate - to a limited extent - its victims, while staying operational and profitable.[7]

In this case, the judge – in his first and only asbestos case[8] – decided to reduce by 90 percent the amount Garlock owes the more than 4,000 Navy service members and other victims who have or will die from mesothelioma. In addition, the judge said that some victims – including Navy veterans and their attorneys - "withheld evidence" from Garlock, an utterly perplexing finding since this information was already in Garlock's possession. But it is a finding that has generated a good deal of reaction from the asbestos lobby which is seeking legislation to limit industry liability and make it harder for dying asbestos victims to obtain compensation.

To support this ruling, the judge chose four areas to examine and then proceeded to rule against the victims in every one of them. Those areas were, according to the decision:

> 1). The "science" evidence relating to asbestos and asbestos disease; 2). The "social science" evidence relating to practices in asbestos tort litigation; 3). The case law in asbestos estimation cases; and, 4). The resulting estimation of Garlock's aggregate liability.

However, a review of facts reveals that the findings in each area are not merely questionable. They run counter to Garlock's own incriminating statements about its products, two decades of prior rulings by experienced judges,[9] verdicts from juries throughout the country[10]; the opinion

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[4] These admissions can be found in Garlock's Material Safety Data Sheets, required by the Occupational Safety & Health Administration (OSHA). These, as well as asbestos-related workers compensation claims, are on file with CJ&D.

[5] Brochure on file with CJ&D.

[6] Holmes, D. R., (1956, March 7) *The Asbestos Textile Institute Air Hygiene Committee Meeting*. Meeting Minutes.

[7] Because some asbestos corporations poisoned so many Americans and were faced with the prospect of bankruptcy, in 1994 Congress passed special legislation (section 524(g) of the bankruptcy code) that allowed asbestos corporations to set up trusts to compensate the families they injured and killed and, at the same time, reorganize under the bankruptcy laws to continue operating profitably. Filing under 524(g) allows most asbestos corporations to remain economically healthy and pay pennies on the dollar to victims. RAND found that "[m]ost trusts do not have sufficient funds to pay every claim in full and, thus, set a payment percentage that is used to determine the actual payment a claimant will be offered." The median payment percentage is 25 percent, but some trusts pay as low as 1.1 percent of the value of a claim.
http://www.rand.org/content/dam/rand/pubs/technical_reports/2010/RAND_TR872.sum.pdf

[8] The judge in this case, Judge George Hodges, retired as a bankruptcy judge in 2011. He was recalled for one year during which time he ruled in the Garlock case. http://judgepedia.org/George_R._Hodges

[9] *In re Specialty Products Holding Corp.*, BR 10-11780-JKF, 2013 WL 2177694 (Bankr. D. Del. May 20, 2013); *In re Pittsburgh Corning Corp.*, BR 00-22876 JKF, 2013 WL 2299620 (Bankr. W.D. Pa. May 24, 2013) *clarified on denial of reconsideration,* 00-22876-TPA, 2013 WL 5994979 (Bankr. W.D. Pa. Nov. 12, 2013); *In re W.R. Grace & Co.*, 386 B.R. 17 (Bankr. D. Del. 2008); *In re Mid-Valley, Inc. (Halliburton)*, 305 B.R. 425, 427 (Bankr. W.D. Pa. 2004); *In re USG Corp.*, 290 B.R. 223, 224 (Bankr. D. Del. 2003); *In re N. Am. Refractories Co.*, 02-20198, 2007

of scientists for every regulatory agency in the nation;[11] and even Garlock's own past litigation record, where it not only lost before juries but also agreed to settle thousands of claims. In other words, at best this decision is an outlier that should not be the basis for any policy decisions. At worst, it raises disturbing questions about a decision that contradicts credible scientists, impartial scientific research groups, judges and juries in thousands of other asbestos cases, and Garlock itself.

As just one small example of the many problems with this decision, the judge misstated the actual trial testimony of a nuclear trained machinist who repaired and maintained nuclear propulsion plant equipment while serving in the Navy, including Garlock gaskets. This misrepresentation provided the basis for a finding that attorneys for this individual and other victims engaged in misconduct. This "misconduct" can be summarized as follows: attorneys for this former Navy service member "withheld evidence" from Garlock about its own products, and then these attorneys failed to assist Garlock in proving Garlock's case against the attorneys' own clients. Both allegations are not only bizarre; they are unsupported by the actual trial record in the case. Moreover, this conclusion was reached in a closed-door hearing where, to protect confidentiality, the attorneys were not in the courtroom. However, they strongly refute the allegations. Moreover, to believe this "evidence misrepresentation" occurred, it is necessary to believe that Garlock and its top-notch litigators, and every other experienced judge in every case brought against Garlock, were all regularly "duped" by victims' attorneys. It would also be necessary to believe that the victims themselves, many of whom are veterans who served their country, knowingly participated in misleading the courts. We do not believe this and the following backgrounder explains some of the reasons why.

Moreover, this result did not last long. After victim representatives filed a brutal brief[12] with new evidence showing how Garlock "violated [the judges'] discovery orders, hid evidence from the bankruptcy court and presented false testimony" and "committed a fraud upon the court," Garlock's case essentially crashed and burned. Garlock and its parent, EnPro, settled the case by paying victims almost four times as much as the judge had ordered.[13] They also dropped all allegations against victims' attorneys, which were dismissed "with prejudice" with *zero dollars* being paid.[14] Clearly, the victims and their attorneys had a much stronger case than the judge recognized or Garlock would never have agreed to this.

WL 7645287 (Bankr. W.D. Pa. Nov. 13, 2007); *In re Quigley Co., Inc.*, 04-15739(SMB), 2008 WL 2097016 (Bankr. S.D.N.Y. May 15, 2008) *rev'd,* 449 B.R. 196 (S.D.N.Y. 2011) *aff'd,* 676 F.3d 45 (2d Cir. 2012).

[10] *Hamilton v. Garlock Inc.*, JVR No. 376810, 1998 WL 1674468 (S.D.N.Y.); *Moeller v. Garlock Sealing*, JVR No. 1102170027; 2009 WL 8104094 (W.D.Ky.)

[11] The judge said, "The court finds no probative value to the statements of safety and regulatory agencies …" Order, p. 24-25.

[12] http://blogs.reuters.com/alison-frankel/2014/06/06/asbestos-plaintiffs-lawyers-garlock-is-the-bad-guy-not-us/

[13] https://www.law360.com/articles/924121

[14] legalnewsline.com/stories/510704392-federal-judge-agrees-to-stay-rico-cases-against-asbestos-plaintiffs-firms

THE BAFFLING GARLOCK "FINDINGS"

As noted earlier, in order to reach its outlier decision, the judge said he examined four areas and ruled against the victims in every one. Yet in each area, there is substantial evidence contradicting this judge.

1). THE "SCIENCE" EVIDENCE RELATING TO ASBESTOS AND ASBESTOS DISEASE.

The following are some of the judge's "scientific" findings about the injuries caused by Garlock's asbestos, followed by information that contradicts these findings:

1. The judge said, "It was only when the gaskets were cut, hammered, scraped, brushed or abraded that they could generate breathable asbestos fibers" and that this resulted in a relatively *low exposure* to asbestos to a limited population and that its legal responsibility for causing mesothelioma is "relatively *de minimus*."

   Here are the facts:

   The judge says, "Garlock has consistently maintained that its products did not cause asbestos disease" and then indicates substantial agreement with this view. This contradicts Garlock's entire history. As noted earlier, the past is replete with incriminating statements by Garlock about the lethal nature of its products. This awareness stems back to at least the 1940s, to the first known workers compensation claims, which have continued all the way through the 2000's.[15] In the 1980s, Garlock's Material Safety Data Sheets (MSDS's), required by the Occupational Safety & Health Administration (OSHA), warned companies that inhalation of airborne fibers from its gaskets could cause "well-known long term effects of Asbestosis, lung cancer and mesothelioma."[16] The company was worried enough about asbestos exposure from its products that in the 1970s, it began producing asbestos-free gaskets, referenced in a brochure called "It's Time to Stop Using Asbestos. And Nobody Has Been More Aware of it Than Garlock."[17]

   Actual trial testimony of workers shows the judge's statements to be an erroneous representation of the nature of asbestos exposure to Garlock's gaskets. One example, referenced in Paragraph 60 of the decision, concerned former Navy service member Robert Treggett. Treggett testified in a 2004 case against Garlock and others, which resulted in a $27 million jury verdict including a $15 million punitive damages award directed specifically at Garlock's conduct of "oppression."[18] Treggett was a nuclear trained machinist who repaired and maintained nuclear propulsion plant equipment, including Garlock asbestos

[15] In 1945, Garlock employee Vera Clemons died of asbestosis and the New York workers' compensation board gave her children death benefits. Garlock asbestos-related workers compensation claims are on file with CJ&D.
[16] Garlock's MSDA's are on file with CJ&D.
[17] Brochure on file with CJ&D.
[18] *Treggett v. Alfa Laval Inc., et al.,* Case No. BC 307 058, Superior Court of California, Judgment on Special Verdicts, January 3, 2005.

gaskets, while in the Navy. He testified about his experience on a nuclear submarine, the USS John Marshall, removing Garlock sheet gaskets from equipment after they had been used. He said that by the time they got to it, the asbestos gasket would be "crushed" and "baked to the surface" of equipment because of the system's high temperatures. The only way to get it off was by pulling or tearing it off in "bits and pieces." Sometimes they even had to create an entirely new gasket out of "raw stock" using "Garlock sheet asbestos gasket material." And when workers had to remove an old asbestos-containing gasket from a valve, said Mr. Treggett, "there was a lot of scrap and dust that flew off, because they didn't come off in one piece." This was dust from the asbestos gasket and Mr. Treggett inhaled it.

As one of the world's largest asbestos-containing gasket and packing manufacturers, the use of Garlock's products was widespread and impacted vast numbers of people - hardly a limited population. In 1975, the U.S. Navy said that people who worked with gaskets and packing might as well be considered asbestos workers. Garlock was a major player in the asbestos industry and was a founder and member of the Board of Governors of the Asbestos Textile Institute, along with Raybestos, Johns-Manville and the American Asbestos Textile Corporation.

2. The judge minimized the impact of the kind of asbestos in Garlock's gaskets – chrysotile – calling it "far less toxic than other forms of asbestos."

Here are the facts:

In its MSDS's, Garlock stated clearly that inhalation of airborne *chrysotile* fibers from its gaskets can cause "well-known long term effects of Asbestosis, lung cancer and mesothelioma."[19] The Garlock chrysotile asbestos, which workers like Mr. Treggett inhaled, was lethal. Federal agencies, impartial scientific research groups, judges and juries have repeatedly found that chrysotile asbestos *is* a significant cause of the asbestos diseases that kill and injure Americans and that there is no safe level of exposure to asbestos. The Occupational Safety & Heath Administration[20] (OSHA), the Environmental Protection Agency[21] (EPA), the International Agency for Research on Cancer (IARC) and the World Health Organization[22] (WHO) have all rejected the argument that chrysotile asbestos is largely benign, finding instead that it causes cancer and there is no safe level of exposure. The judge said he found "no probative value" in any of the above.

Moreover, in a 1985 "Technical Report for Garlock, Inc.," a laboratory analysis detected the more toxic "amphibole" asbestos in three out of 11 gasket samples, finding that, while in small amounts, the amphibole asbestos was "a constituent of the material and were not caused by some form of contamination."[23]

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[19] Garlock's MSDA's are on file with CJ&D.
[20] Occupational Safety & Health Administration, *Asbestos*, https://www.osha.gov/SLTC/asbestos/
[21] Environmental Protection Agency, Toxic Substances: Asbestos, http://www.epa.gov/oecaagct/ttox.html
[22] World Health Organization and International Agency for Research on Cancer, *IARC: Arsenic, Metals, Fibers, and Dusts, Volume 100C, A Review of Human Carcinogens* (2009), http://monographs.iarc.fr/ENG/Monographs/vol100C/mono100C.pdf
[23] Technical Report for Garlock, Inc. on file with CJ&D.

2). The "social science" evidence relating to practices in asbestos tort litigation.

General Facts

In the "social science" section of his analysis, the judge found that Garlock was the victim of a decade-long campaign by victims and their attorneys to "withhold evidence" or "misrepresent exposure evidence" going so far as to say that the entire tort system in these cases – where Garlock lost before juries and settled cases - was "infected by the manipulation of exposure evidence by plaintiffs and their lawyers." Overwhelming evidence and common sense suggest otherwise.

1. To "prove" that the approximately 10,000 cases that Garlock resolved in litigation were all "infected by the manipulation of exposure evidence by plaintiffs and their lawyers," the judge allowed Garlock to select 15 closed cases, and said that in all 15 "exposure evidence" was withheld. This finding is bizarre for a number of reasons.

   Here are the facts:

   - To begin, the court picked 15 cases out of about 10,000 cases against Garlock, representing only a fraction of the company's total historical liability (less than .0015 per cent). Even the judge admitted this was not a representative sample, "these fifteen cases are just a minute portion of the thousands that were resolved by Garlock in the tort system. And they are not purported to be a random or representative sample…"

   - To protect confidentiality, the plaintiffs' lawyers whose actions were questioned were not present in the courtroom to respond to the accusations, which they strongly refute.[24] The lawyers remain under a court-imposed confidentiality order, so they are unable to publicly explain what happened in each case.

   - It appears that the judge based his conclusions on a comparison of deposition testimony by the victims in their court cases with the victims' claims to various bankruptcy trusts. That kind of comparison is wholly unreliable. In fact, the judge himself notes, "the standard for making Trust claims is different than for establishing a tort claim" and "it is not suppression of evidence for a plaintiff to be unable to identify exposures." For example, claimants can collect from bankruptcy trusts simply by providing proof that they worked there during a certain period of time. As the judge himself suggests, it is appropriate and expected that a victim will file a claim with a bankruptcy trust without providing evidence that he was exposed to a particular company's products, as long as the claimant worked at the site during the specific time period. If that same claimant responds in a deposition that he doesn't recall being exposed to a particular type of asbestos, he has not withheld evidence.

[24] Two attorneys from one of the firms whose cases were among those discussed in the judge's order did participate in the estimation trial for the limited purpose of presenting and cross examining witnesses related to the science issues. They had no role in the portion of the trial relating to the claims filed by or facts related to the individual cases discussed in the judge's order.

- Even though trust claims and lawsuits are brought in entirely different systems, says the judge, these different rules "do not explain or exculpate the 'disappearance' of exposure evidence" and "it is suppression of evidence for a plaintiff to be unable to identify exposure in a tort case but then later … to be able to identify it in a Trust claims." In other words, the judge says the plaintiffs tricked Garlock in tort cases by withholding evidence from Garlock that was already in Garlock's possession.

  Before a case even begins, Garlock is fully in possession of the facts about where its own products are located, such as specific Navy ships where victims like Robert Treggett worked. If that were not enough, Garlock has participated in hundreds of similar cases, where the company has deposed victims in often grueling depositions and has had extensive discovery. Moreover, victims' attorneys file "case reports" listing victims' entire exposure history, including every worksite where the victim worked, every type of equipment used and every manufacturer, distributor and supplier of asbestos that the victim can recall.[25] To say these victims, many of whom are veterans who served their country, knowingly participated in misleading the courts and withheld evidence from Garlock – evidence that was already in Garlock's possession - is ludicrous and offensive.

Paragraph 60

The judge also chose several cases to selectively critique, all of which are under court-ordered seal making it almost impossible to refute the decision. However, the judge's interpretation of one of the cases can be directly challenged because an earlier trial transcript exists. That is the case of Robert Treggett, the former Navy nuclear machinist who has been referenced throughout this backgrounder and appears to be the focus of Paragraph 60. A review of the actual trial transcripts shows substantial factual misstatements by the judge in Paragraph 60.

1. The (Garlock) judge says, "The plaintiff [Mr. Treggett] did not admit to any exposure from amphibole insulation…" suggesting information was withheld. (Amphibole insulation surrounds Garlock's gaskets and is typically dusty when cut.)

   The trial transcript shows:

   - There was actually considerable testimony throughout the trial that the plaintiff, Mr. Treggett, was exposed to amosite asbestos from various forms of insulation on the John Marshall nuclear submarine. Amosite is in the amphibole family. Counsel for defendants referred repeatedly to this testimony during the trial and in closing arguments. For example:

     > Counsel for Defendant Yarway: Now, what do plaintiff's experts say about this thermal insulation exposure that Mr. Treggett had when he was on the John Marshall? Well, Dr. Horn testified that Mr. Treggett's exposure to thermal insulation alone in the Navy was sufficient to cause his mesothelioma. This is

[25] See., e.g., Plaintiff's Case Report, *Treggett v. Alfa Laval Inc., et al.,* Case No. BC 307 058, Superior Court of California, May 6, 2004.

what Dr. Horn testified to, that Mr. Treggett's exposure to thermal insulation by itself, nothing else, was sufficient to cause his mesothelioma.

Counsel for Defendant Garlock: Amosite exposure. There was some dispute whether or not it was Unibestos or not, but it was clear it was amosite insulation. All of the experts have testified to that. That is what is on naval ships. That is what was on the Ethan Allen class submarine.

- Mr. Treggett also repeatedly discussed his work with insulation, which is also referred to as lagging and as blankets in the transcript. Mr. Treggett readily admitted he was exposed to asbestos dust from insulation as well as from many other products:

  Counsel for Mr. Treggett: And can you identify for the jury in a general way the types of asbestos-containing products or equipment that you believe you worked with or around in the United States Navy?

  Mr. Treggett: The blankets – the blankets, of course, contained asbestos. A lot of the gasketing material contained asbestos. Even some of the packing material contained asbestos. And of course, all of the rigid insulation contained asbestos. We didn't work with that that much. …
  …

  Counsel for Defendant Garlock: By the way, you were on the Marshall during the first six months it was being overhauled, correct?

  Mr. Treggett: Correct.

  Garlock's counsel: And you would see laggers or insulators performing insulation work throughout that time; isn't that right?

  Mr. Treggett: Correct.

  Garlock's counsel: And I believe we already established yesterday you saw the main engines being relagged during that time.

  Mr. Treggett: Yes.

  Garlock's counsel: And piping being taken out, lagging removed, piping reinstalled, lagging reinstalled, blankets put on, that type of thing, correct?

  Mr. Treggett: Yes, Sir.

  Garlock's counsel: In fact, it was an absolute necessity for you to work in the presence of laggers during the months that you were assigned to the Marshall while it was still in dry dock, isn't that correct?

  Mr. Treggett: Yes, sir.

Garlock's counsel: And the insulation created dust?

Mr. Treggett: Yes.

Garlock's counsel: And in fact, there was so much dust, you would have the dust on your clothes during the first six months the Marshall was in dry dock and a great deal of time even in your hair; isn't that right?

Mr. Treggett: Yes, sir.

Garlock's counsel: By the way, you breathed in all these dusts we're talking about; you couldn't help it?

Mr. Treggett: Couldn't help it; yes, sir.

2. The (Garlock) judge says, "The plaintiff … claimed that 100% of his work was on gaskets," suggesting no other company contributed to his asbestos exposure.

   The trial transcript shows:

   Mr. Treggett said repeatedly during the trial that 70 percent of his work on the USS Marshall was with gaskets and 30 percent was other equipment repair. He *never* stated that 100 percent of his work was on gaskets:

   Mr. Treggett's counsel: How often during the time period that you were aboard the John Marshall did you work with gaskets?

   Mr. Treggett: A great deal of the time was spent on gasket work.

   Mr. Treggett's counsel: Was that a primary or main function of your job duties as machinist mate?

   Mr. Treggett: Yeah. I would say that based on the overall 4 ½ years that I was on the submarine, probably the largest portion of the work we did was gasket replacement, in the neighborhood of 70 percent gasket work to 30 percent equipment repair.…
   …

   Mr. Treggett's counsel: Reflecting on this work, are you able to give us a percentage breakdown for how often you would have worked as a machinist removing gaskets from this equipment as opposed to removing some type of insulation on the exterior of the equipment?

   Mr. Treggett: Well, gasket work and gasket replacement over the 4 ½ years while I was on the submarine was the biggest part of the job that we did. Maybe 70

percent of the work that we did was gasket replacement, 30 percent was probably equipment repair.

3). The case law in asbestos estimation cases; and, 4). The resulting estimation of Garlock's aggregate liability.

1. The judge based its liability calculation on "… the approach offered by Garlock" which he says "produces a reasonable and reliable estimate of its liability to present and future claimants."

   Here are the facts:

   The approach used by Garlock for calculating liability has never been used before in an asbestos case, and uses a methodology that has been soundly rejected by the courts for over 20 years. This novel approach was put forth not surprisingly by Garlock's expert, the Bates White consulting firm. Bates White is an industry insider that, for more than a decade, has worked for insurance companies and asbestos defendants, including Garlock, Bondex, WR Grace, Babcock & Wilcox and ASARCO. Two decades of prior rulings[26] by experienced asbestos judges, and verdicts from juries throughout the country[27] rejected the very same analysis used in this order, as recently as last summer. Experienced asbestos judges do not use this liability calculation method.

   The court decided to value Garlock's responsibility in this case by "divorcing" it from Garlock's own history settling cases, calling these data "useless" even though state laws often require courts to use them. State laws also often require courts to consider the company's conduct, which in this case would include Garlock's decades-long choice to use asbestos in gaskets knowing workers would die. However in this case, the court simply declared that Garlock's "claims resolution history does not reflect the debtor's liability" and so ignored it.

   We have shown through this backgrounder that the facts stand in direct contradiction to this statement. The reason Garlock settled cases was not because of anything the victims and their lawyers did, but because of the crushing evidence against it. This included Garlock's own incriminating statements about its products; two decades of rulings by experienced judges; verdicts from juries throughout the country; and the opinion of scientists for every regulatory agency in the nation. Perhaps nothing was more instructive than the jury verdict in the 2004 case brought by Navy veteran Robert Treggett, whose case the court selectively

[26] *In re Specialty Products Holding Corp.*, BR 10-11780-JKF, 2013 WL 2177694 (Bankr. D. Del. May 20, 2013); *In re Pittsburgh Corning Corp.*, BR 00-22876 JKF, 2013 WL 2299620 (Bankr. W.D. Pa. May 24, 2013) *clarified on denial of reconsideration,* 00-22876-TPA, 2013 WL 5994979 (Bankr. W.D. Pa. Nov. 12, 2013); *In re W.R. Grace & Co.,* 386 B.R. 17 (Bankr. D. Del. 2008); *In re Mid-Valley, Inc. (Halliburton)*, 305 B.R. 425, 427 (Bankr. W.D. Pa. 2004); *In re USG Corp.*, 290 B.R. 223, 224 (Bankr. D. Del. 2003); *In re N. Am. Refractories Co.,* 02-20198, 2007 WL 7645287 (Bankr. W.D. Pa. Nov. 13, 2007); *In re Quigley Co., Inc.*, 04-15739(SMB), 2008 WL 2097016 (Bankr. S.D.N.Y. May 15, 2008) *rev'd,* 449 B.R. 196 (S.D.N.Y. 2011) *aff'd,* 676 F.3d 45 (2d Cir. 2012)

[27] *Hamilton v. Garlock Inc.*, JVR No. 376810, 1998 WL 1674468 (S.D.N.Y.); *Moeller v. Garlock Sealing*, JVR No. 1102170027; 2009 WL 8104094 (W.D.Ky.)

discussed in Paragraph 60. In that case, the jury awarded $27 million including $15 million in punitive damages, directed specifically at Garlock's conduct of "oppression."[28]

Garlock settled cases for one reason: to avoid trials like this because evidence of its liability was overwhelming.

[28] *Treggett v. Alfa Laval Inc., et al.,* Case No. BC 307 058, Superior Court of California, Judgment on Special Verdicts, January 3, 2005.