

Lawyers Win \$3.6 Million in Carnival Worker's Death

Case: Giovanna Settimi Caraffa, as personal representative of the estate of Benedetto Emanuele Caraffa, deceased, v. Carnival

Case no: 06-00964CA42

Description: Negligence

Filing date: Jan. 17, 2006

Trial dates: Dec. 3-16, 2014

Judge: Miami-Dade Circuit Judge Jacqueline Hogan Scola

Plaintiffs attorneys: Michael Winkleman and Jason Margulies, Lipcon, Margulies, Alsina & Winkleman, Miami

Defense attorneys: Jeffrey Foreman and Noah Silverman, Foreman Friedman, Miami

Verdict amount: \$3.6 million

Details: Caraffa, a citizen of Italy, worked as an electrician for Carnival Cruise Lines from 1985 to 2000. He developed lung cancer in 2001 and died in 2005.

Caraffa allegedly developed cancer as a result of his near-daily exposure to asbestos in the machine spaces and engine rooms. He worked aboard Carnival's Mardi Gras, Carnivale, Festivale and Tropicale, which are now out of service. All four were steam ships, which the plaintiffs claimed were insulated with asbestos.

The lawsuit was filed on behalf of Caraffa's estate, his widow and his two adult children, seeking just over \$10 million.

Plaintiffs case: The plaintiffs presented depositions from several Italian doctors who treated Caraffa as well as an Oakland Park pulmonologist, Dr. Edward Coopersmith, who all testified the asbestos exposure caused or contributed to his cancer. While Caraffa was a smoker early in his life, he quit in the 1980s before going to work for Carnival.

The plaintiffs attorneys considered their most important witness the only crew member to testify at trial, Giorgio



J. ALBERT DIAZ

Jason Margulies and Michael Winkleman said it was the first time an asbestos case against a cruise line has gone to trial.

Rispoli, a former Carnival chief engineer. Rispoli said asbestos was throughout the areas Caraffa worked for 10 to 12

years before he was diagnosed with cancer. The doctors testified the incubation period for the cancer was about 10 to 12

years.

Defense case: The defense called South Miami pulmonologist Allan Feingold, who frequently testifies for defense lawyers on asbestos issues, as well as Dr. Thomas Sporn of Durham, N.C. Based on autopsy slides of Caraffa's lungs, both testified he did not have enough asbestos fibers to contract cancer and blamed smoking as the sole cause.

The defense also called a corporate representative of Carnival Corp. who testified the cruise line didn't know asbestos was on its ships. He also maintained the plaintiff's case was purely circumstantial there was no proof of the presence of asbestos since the four ships have been scrapped.

Outcome: Following a nine-day trial, jurors deliberated for 3½ hours before awarding the plaintiffs \$10.3 million—\$10 million for pain and suffering, \$192,000 in damages for Caraffa's widow, \$128,000 in lost earnings and \$19,504 in funeral expenses. The award was reduced by 65 percent, the comparative negligence jurors assigned to Caraffa.

Comments: "This was a hard-fought battle that lasted nearly nine years," Winkleman said. "We were ecstatic to finally get to the merits in front of a jury and for the jury to do the right thing."

Margulies added: "This is the first time an asbestos case against a cruise line has gone to trial. I think it's an important case because older cruise workers who may have recently been diagnosed with pulmonary issues related to asbestos exposure on cruise ships now have a path for compensation."

Post-verdict: The defense filed three motions to set aside the verdict and for a new trial and remittitur. Plaintiffs filed a motion to set aside the finding of comparative fault.

—Julie Kay

PREMISES LIABILITY

PALM BEACH CIRCUIT COURT

Family of Teen Shot Outside Club Settles for \$1 Million

The family of a 19-year-old unemployed man who was fatally shot outside a West Palm Beach nightclub received \$1 million in a settlement with the owner and manager of a strip mall where the shooting occurred.

The estate of Isaias Santos-Vasquez sued Cohen Market Ventures LLC and Cohen Commercial Management LLC, alleging Santos-Vasquez had been a bystander near a brawl outside the club and the defendants failed to provide safe premises.

The defense argued the nightclub should have provided its own security. The court ruled the defendants had a

nondelegable duty to provide safe premises. The parties settled before the case went to a jury.

Case: Estate of Santos-Vasquez v. Cohen Market Ventures

Case no.: 09-16795 AH

Plaintiffs attorneys: Joseph P. D'Ambrosio and Sean L. Wilson, D'Ambrosio & Wilson, Delray Beach; and Joel S. Perwin, Joel S. Perwin P.A., Miami

Defense attorneys: Michael J. Obringer, Marshall, Dennehey, Warner, Coleman & Goggin, Jacksonville; and Jeffrey A. Shaffer, Jeffrey A. Shaffer P.A., Jupiter

PALM BEACH CIRCUIT COURT

Jury: Restaurant Blameless for Patron's Trip on Step

A restaurant in Boynton Beach was found not liable for injuries suffered by an elderly customer who tripped on

an unmarked step.

Phyllis Rosenblatt, 73, broke her right hip from a fall in the Clock Tower Grill. She sued the owner, Tabbs Management Corp., alleging the step was a dangerous condition and management was negligent for failing to place a sign or markings to warn patrons. Plaintiffs counsel asked the jury to award Rosenblatt \$596,974 for past and future medical costs and past and future pain and suffering.

The restaurant argued the step was open and obvious, and Rosenblatt failed to use due care. The jury found the restaurant was not liable for Rosenblatt's injuries.

Case: Rosenblatt v. Tabbs Management

Case no.: 50-2011-CA-5342

Plaintiffs attorney: Richard E. Tullie, Law Offices of Craig Goldenfarb, West Palm Beach

Defense attorney: Brett R. Bloch, Shendell & Pollock, Boca Raton