

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES**

DATE: 10/19/16

DEPT. 33

HONORABLE CHARLES F. PALMER

JUDGE

MARIA C. FAUNE

DEPUTY CLERK

HONORABLE

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

NONE

Deputy Sheriff

HEATHER PITVOREC, CSR#10551

\*\*Reporter Pro Tempore\*\* Reporter

9:00 am BC607192

Plaintiff JAY STUEMKE (X)

Counsel STUART PURDY (X)

PHILIP JOHN DEPOIAN ET AL

VS

Defendant KHALED TAQI-EDDIN (X)

AMERICAN INTL INDUSTRIES INC ET

Counsel DOUGLAS WAH (X)

\*SENT TO D-33 C. PALMER FOR TRI

\*\*PREFERENCE CASE \*\*

COORDINATED WITH JCCP4674

(NO LEGAL FILE)

**NATURE OF PROCEEDINGS:**

JURY TRIAL;

PI-Asbestos

At 9:18 a.m., deliberations resume from 10/18/16.  
All jurors present as heretofore.

At 11:55 a.m., the jury submits a question to the Court.

At 1:33 p.m., Court and counsel confer regarding the jury question.

At 1:45 p.m., the jury and the alternate juror return in open court and the question is answered.

At 2:00 p.m., the jury returns to the jury room to resume deliberations.

At 2:48 pm the jurors take the afternoon break and resumes with deliberations at 3:00 pm.

At 3:07pm the jury informs the court they have reached a verdict.

At 3:30 p.m., the Jury returns into Court with the following Special Verdict.

"TITLE OF COURT AND CAUSE"

WE, THE JURY in the above-entitled action, find the following jury verdict on the questions

10/25/2016

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Defendant KHALED TAQI-EDDIN (X)  
Counsel DOUGLAS WAH (X)

(NO LEGAL FILE)

**NATURE OF PROCEEDINGS:**

submitted to us:

NEGLIGENCE  
-----

QUESTION 1: Was Defendant negligent in designing, manufacturing, or selling the following product?

Whittaker Clark & Daniels (Talc) YES  X  NO     

If you answered YES to Question 1 then answer Question 2. If you answered NO to Question 1, then skip Question 2 and answer Question 3.

QUESTION 2: Was Defendant's negligence a substantial factor in causing harm to Philip Depoian?

Whittaker Clark & Daniels (Talc) YES  X  NO     

Answer Question 3.

DESIGN DEFECT: CONSUMER EXPECTATIONS  
-----

QUESTION 3: Did Defendant manufacture, distribute or sell the following product?

Whittaker Clark & Daniels (Talc) YES  X  NO     

If you answered YES to Question 3 then answer Question 4. If you answered NO to Question 3, then

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**NATURE OF PROCEEDINGS:**

skip Questions 4 and 5, and answer Question 6.

QUESTION 4: Did Defendant's product fail to perform as safely as an ordinary consumer would have expected when used or misused in an intended or reasonably foreseeable way?

Whittaker Clark & Daniels (Talc) YES X NO     

If you answered YES to Question 4 then answer Question 5. If you answered NO to Question 4, then skip Question 5 and answer Question 6.

QUESTION 5: Was Defendant's product's failure to perform as safely as an ordinary consumer would have expected a substantial factor in causing harm to Philip Depoian?

Whittaker Clark & Daniels (Talc) YES X NO     

If you answered YES to Question 5 then skip Questions 6 through 8 and answer Question 9. If you answered NO to Question 5, then answer Question 6.

DESIGN DEFECT: RISK/BENEFIT  
-----

QUESTION 6: Did Defendant manufacture, distribute, or sell the following product?

Whittaker Clark & Daniels (Talc) YES      NO     

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**NATURE OF PROCEEDINGS:**

If you answered YES to Question 6 then answer Question 7. If you answered NO to Question 6, then skip Questions 7 and 8, and answer Question 9.

QUESTION 7: Did the risk of the product's design outweigh the benefits of the design?

Whittaker Clark & Daniels (Talc) YES \_\_\_ NO \_\_\_

If you answered YES to Question 7, then answer Question 8. If you answered NO to Question 7, then skip Question 8 and answer Question 9.

QUESTION 8: Was the risk posed by the product's design a substantial factor in causing harm to Philip Depoian?

Whittaker Clark & Daniels (Talc) YES \_\_\_ NO \_\_\_

Answer Question 9.

**MANUFACTURING DEFECT**  
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QUESTION 9: Did Defendant manufacture, distribute, or sell the following product?

Whittaker Clark & Daniels (Talc) YES X NO \_\_\_

If you answered YES to Question 9 then answer

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Counsel STUART PURDY (X)

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**NATURE OF PROCEEDINGS:**

Question 10. If you answered NO to Question 9, then skip Questions 10 and 11, and answer Question 12.

QUESTION 10: Did Defendant's product contain a manufacturing defect when it left Defendant's possession?

Whittaker Clark & Daniels (Talc) YES X NO     

If you answered YES to Question 10 then answer Question 11. If you answered NO to Question 10, then skip Question 11 and answer Question 12.

QUESTION 11: Was the manufacturing defect a substantial factor in causing harm to Philip Depoian?

Whittaker Clark & Daniels (Talc) YES X NO     

Answer the Question 12.

FAILURE TO WARN  
-----

QUESTION 12: Did Defendant's product have potential risks that were known or knowable in light of the generally accepted scientific and medical knowledge that was available at the time of manufacture, distribution, or sale?

Whittaker Clark & Daniels (Talc) YES X NO     

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(NO LEGAL FILE)

**NATURE OF PROCEEDINGS:**

If you answered YES to Question 12 then answer Question 13. If you answered NO to Question 12 but answered YES to Questions 2, 5, 8 OR 11, then skip Questions 13 through 16, and answer Question 17. If you did not answer, or answered NO to Questions 2, 5, 8, 11 AND 12, stop here, answer no further questions, and sign the verdict form and return to the Clerk.

QUESTION 13: Did the potential risks of Defendant's product present a substantial danger to persons using or misusing the product in an intended or reasonably foreseeable way?

Whittaker Clark & Daniels (Talc) YES  X  NO

If you answered YES to Question 13 then answer Question 14. If you answered NO to Question 13 but answered YES to Questions 2, 5, 8 OR 11, then skip Questions 14 through 16 and answer Question 17. If you did not answer, or answered NO to Questions 2, 5, 8 AND 11, stop here, answer no further questions, and sign the verdict form and return to the Clerk.

QUESTION 14: Would ordinary consumers of Defendant's product have failed to recognize the potential risks?

Whittaker Clark & Daniels (Talc) YES  X  NO

If you answered YES to Question 14 then answer Question 15. If you answered NO to Question 14 but

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answered YES to Questions 2, 5, 8 OR 11, then skip Questions 15 and 16, and answer Question 17. If you did not answer, or answered NO to Questions 2, 5, 8 AND 11, stop here, answer no further questions, and sign the verdict form and return to the Clerk.

QUESTION 15: Did Defendant fail to adequately warn or instruct of the potential risks of its products?

Whittaker Clark & Daniels (Talc) YES  X  NO

If you answered YES to Question 15 then answer Question 16. If you answered NO to Question 15 but answered YES to Questions 2, 5, 8 OR 11, then skip Question 16, and answer Question 17. If you did not answer, or answered NO to Questions 2, 5, 8 AND 11, stop here, answer no further questions, and sign the verdict form and return to the Clerk.

QUESTION 16: Was the lack of sufficient warnings a substantial factor in causing harm to Philip Depoian?

Whittaker Clark & Daniels (Talc) YES  X  NO

If you answered YES to Question 16 then answer Question 17. If you answered NO to Question 16 but answered YES to Questions 2, 5, 8 OR 11, then answer Question 17. If you did not answer, or answered NO to Questions 2, 5, 8 AND 11, stop here, answer no further questions, and sign the verdict form and return to the Clerk.

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**NATURE OF PROCEEDINGS:**

DAMAGES: ECONOMIC AND NON-ECONOMIC  
-----

QUESTION 17: Without taking into consideration any reduction of damages due to the comparative fault of others, if any, what do you find to be the TOTAL AMOUNT of damages, including economic and non-economic damages, if any, suffered by the Plaintiffs?

PHILIP DEPOIAN'S ECONOMIC DAMAGES

Future lost earnings and household services?	\$ 2,375,000
Past medical bills?	\$ 195,000

PHILIP DEPOIAN'S TOTAL ECONOMIC DAMAGES:  
\$ 2,570,000

PHILIP DEPOIAN'S NON-ECONOMIC DAMAGES

1. Past non-economic damages, including:  
Physical pain, mental suffering, loss of enjoyment of life, disfigurement, physical impairment, inconvenience, anxiety, humiliation, and emotional distress.  
\$3,000,000.-  
-----

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Counsel DOUGLAS WAH (X)

(NO LEGAL FILE)

**NATURE OF PROCEEDINGS:**

2. Future non-economic damages, including:  
Physical pain, mental suffering, loss of  
enjoyment of life, disfigurement, physical  
impairment, inconvenience, anxiety,  
humiliation, and emotional distress.  
\$9,500,000.-  
-----

PHILIP DEPOIAN'S TOTAL NON-ECONOMIC DAMAGES:  
\$12,500,000.-  
-----

Answer Question 18.

QUESTION 18: What are Julie Depoian's damages for  
the loss of her husband, Philip Depoian's,  
companionship and services, including the loss of  
love, companionship, comfort, care, assistance,  
protection, affection, society, moral support, and  
the loss of the enjoyment of sexual relations?

JULIE DEPOIAN'S TOTAL DAMAGES \$3,000,000.-  
-----

Answer Question 19.

QUESTION 19: If 100% represents the total negligence  
or fault that was the cause of Philip Depoian's  
harm, what percentage of this 100% was due to the  
negligence or fault of the Companies listed below.  
For any of the Companies you assign negligence or

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fault to below, it must be established that they were substantial factors in causing Philip Depoian's disease under the same factors you determined Defendant was a substantial factor. The total negligence or fault must add up to 100%.

American International Industries as successor to	
Neslemur (Clubman Talc)	10
Colgate-Palmolive as Successor to Mennen	
(Shave Talc)	10
Cyprus Amax Minerals Company (Talc)	40
Kings Men (Talc)	
Shulton, Inc. (Old Spice Talcum Powder)	10
Whittaker Clark & Daniels (Talc)	30
<b>TOTAL:</b>	<b>100%</b>

Answer Question 20.

QUESTION 20: Do you find by clear and convincing evidence that Defendant, through one or more of its officers, directors or managing agents, acted with malice, oppression, or fraud in the conduct upon which you base your finding of liability?

Whittaker Clark & Daniels (Talc) YES  X  NO

Please have the Presiding Juror sign and date the

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form.

Dated: 10/19/16 /s/ Alfredo Lopez  
PRESIDING JUROR

The Jury is polled. As to questions 1, 2, 4, 5, 10, 11, 12, 13, 16, and 20, ten jurors answer "agree" and Jurors John Rosenfield and Nery Rivas answer "disagree". As to questions 3, 9, 14, 17, 18, and 19, all jurors "agree". As to question 15, eleven jurors answer "agree" and Juror John Rosenfield answers "disagree".

Counsel waive re-reading of the verdict as recorded.

Special Verdict and Jury Instructions-Given are filed this date.

The Jury is admonished and trial is continued to 10/20/16 at 9:00 a.m. for the second phase of the trial re: punitive damages.

10/25/2016

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