

# DUPONT FOUND GROSSLY NEGLIGENT IN 2004 SPILL

July 14, 2009

A jury in Ashland, Kentucky has rendered a verdict that could result in the largest environmental award for any lawsuit in Kentucky history.

On Monday, July 13, 2009, the jury hearing the 2004 DuPont Litigation returned a verdict in excess of \$1.25 million for plaintiffs, who are but six of the 179 individuals suing E. I. DuPont de Nemours & Company for injuries they sustained as the result of DuPont's October 11, 2004 release of clouds of toxic fuming sulfuric acid from its Wurtland plant over large portions of Greenup County, Kentucky. The remaining 173 plaintiffs' cases will be tried, under the streamlined trial plan developed by the Honorable David L. Bunning, as soon as October 2009.

The jury awarded the six plaintiffs - ranging in age from 1-1/2 to 80 at the time of the spill, who suffered skin burns, eye irritation and immediate and on-going respiratory and eye problems - approximately \$130,000 in compensatory damages, and determined that DuPont was grossly negligent in conjunction with the 2004 leak. As a result of DuPont's gross negligence, each plaintiff was also awarded punitive damages equivalent to 10 times their compensatory damages.

The lawsuit is being tried in four phases. The jury's finding that DuPont was grossly negligent will apply in subsequent phases of the litigation. Going forward, the only other issue that juries will decide is whether the remaining 173 plaintiffs are entitled to be compensated by DuPont. If so, each will automatically be awarded punitive damages equal to 10 times the amount of their compensatory damage awards.

Co-lead counsel for plaintiffs, Louise M. Roselle of Waite, Schneider, Bayless & Chesley (Cincinnati, OH) and William H. Wilhoit (Grayson, Kentucky), noted that the complex trial, in which the claims of the six plaintiffs (three chosen by plaintiffs and three chosen by defendant) were tried, was completed in less than three weeks. Roselle said, "This verdict vindicates the men, women and children of Greenup County, who suffered at the hands of DuPont and live in fear of another release. It sends an unequivocal message to DuPont that its outrageous conduct will not be tolerated. We look forward to pressing forward to secure full and fair compensation for the remaining plaintiffs."

Under a ruling by the court, DuPont cannot appeal the verdict until all 179 plaintiffs' claims are resolved. Many of those claims belong to police officers, firefighters and other emergency personnel who responded when the leak occurred.

In addition to Roselle and Wilhoit, the trial team included Jean M. Geoppinger, also of Waite, Schneider, Bayless & Chesley, Thomas A. Sweeney (Crescent Springs, KY), Barbara L. Strady (Middletown, OH) and John R. McGinnis (Greenup, KY).

Stanley M. Chesley, who noted that this is a potentially historic case, said, "This verdict sends a message to companies which, at their peril, ignore the health and welfare of the people who live in the vicinity of their plants, and have callous disregard for the environment."

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