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Court upholds \$2.5 million judgment against PPG

By KENDRA LALIBERTE

The United States Circuit Court of Appeals for the Eleventh Circuit upheld a Mobile Federal Court's decision to award the estate of a local man a \$2.5 million judgment against a leading chemical manufacturer last week.

The original lawsuit was filed in Mobile six years ago, and heard by federal District Judge Anthony Alaimo, of Brunswick, Ga., sitting by

designation.

William Paul Lakeman of Mobile brought charges against PPG Industries, a nationally known chemical manufacturer, after his son, Donald Eugene Lakeman, died of asphyxiation while using the company's cleaning solvent.

Donald Lakeman was employed with Otis Elevator Company at the time of his death in 1984, and was using the solvent to clean an elevator pit at Coastal Training Institute, when he was over-

come by the chemical vapors and subsequently died of suffocation, according to the case history.

The lawsuit charged the manufacturer with violations of the Alabama Extended Manufacturers' Liability Doctrine and with careless approval of a misleading warning label which was affixed to the can of cleaner fluid being used by Donald Lakeman at the time of his death.

The appeals court unani-

mously affirmed the judgment of the Mobile federal trial court, and found the

Donald Lakeman was using the solvent to clean an elevator pit when he was overcome by chemical vapors and subsequently died of suffocation

manufacturer failed to warn product users of its potential and possibly lethal dangers.

In its opinion, the appeals court noted undisputed evidence that the active ingredient in the solvent, 1,1,1-Trichloroethane, is "narcotic in nature and emits deadly vapors which make the chemical inherently dangerous."

The opinion further noted that a "very small amount of the chemical can produce lethal concentrations of vapors in a confined space."

As administrator of his son's estate, William Paul Lakeman was awarded \$2.5 million in damages.

However, money was not an issue in the case, according to Lakeman, the point was to prevent chemical companies from misinforming consumers about the dangers of their products in the future.

The Lakeman estate is represented by Buddy Brown of the Mobile law firm of

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JUDGMENT

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Cunningham, Bounds, Yance, Crowder and Brown.

Attorney Brown explained the legal importance of the ruling. "The real significance of this decision lies in the fact that PPG Industries was found guilty of a conscious indifference to the likelihood of harm to users of its product as a result of inadequacies in the warning label," he said.

"The opinion itself emphasized the fact that not only was critical safety information omitted from the label, but the label itself was found to actually be capable of lulling the user into a false sense of security by certain statements on the label which de-emphasized the hazards of the product," Brown stated.

"The court opinion alluded to the fact that PPG, the second largest producer of this material in the world, was making something in the neighborhood \$84 million per year in the sale of the product, and a possible motive for 'watering-down' the warning label was to keep its sales and profit margins high," he continued.

"This court has sent a very clear message to manufacturers who are engaged in the production, dispensing, or labeling of dangerous industrial chemical products where death or serious injury is foreseeable to the user of those products," he concluded. "In

the absence of strict safeguards the manufacturer may be called upon to respond in punitive damages."