

# TOP 100 VERDICTS of 2007

**FIFTEEN**
**TOXIC TORTS**
**Hazardous Waste**

## Defendants dumped mercury into landfill

<b>VERDICT</b>	<b>\$108,000,000</b>
<b>CASE</b>	Dirt Inc. v. ShawCor Ltd.; Halliburton Energy Services Inc.; Bredero Shaw L.L.C.; Bredero Price Co.; Southern Waste Services of Alabama; Southern Waste of Alabama Inc.; Southern Waste of Alabama L.L.C.; Mike Koester, No. CV-05-001523
<b>COURT</b>	Mobile County Circuit Court, AL
<b>JUDGE</b>	James Wood
<b>DATE</b>	11/1/2007
<b>PLAINTIFF ATTORNEY(S)</b>	<b>Toby D. Brown</b> (co-lead), Cunningham, Bounds, Crowder, Brown & Breedlove, L.L.C., Mobile, AL <b>Robert T. Cunningham Jr.</b> (co-lead), Cunningham, Bounds, Crowder, Brown & Breedlove, L.L.C., Mobile, AL
<b>DEFENSE ATTORNEY(S)</b>	<b>Donald E. Godwin</b> (lead), Godwin Pappas Ronquillo LLP, Dallas, TX <b>Charles L. Miller Jr.</b> (lead), Miller & Hedge, Mobile, AL <b>Bruce W. Bowman Jr.</b> , Godwin Pappas Ronquillo LLP, Houston, TX

**FACTS & ALLEGATIONS** Plaintiff Dirt Inc. was a 38-year-old, family-owned and operated construction and demolition waste landfill in the 8000 block on Cottage Hill Road in Mobile.

Bredero Shaw Price Co. operated a plant in Theodore (approximately 15 miles southwest of Mobile) that manufactured and applied an insulation coating material, which was composed of mercury and glass syntactic polyurethane foam (GSP), to undersea steel piping. (Bredero, which was owned by ShawCor Ltd., later changed its name to Bredero Shaw L.L.C.)

Dirt alleged that between 2001 and April 2003, Bredero disposed approximately 260 loads of excess pipe coating materials in the Dirt landfill. Dirt claimed that Bredero hired and directed Southern Waste of Alabama L.L.C. to handle and transport the waste from Bredero's facility to the landfill.

According to Dirt, Bredero represented to Dirt its service agreements with Southern Waste that Bredero's materials contained "no hazardous waste." Southern Waste in turn represented to Dirt in delivery tickets signed by Southern Waste employees, that "the waste...delivered to the Dirt, Inc. landfill...does not contain hazardous or flammable materials..." Dirt claimed that from the delivery tickets, it allowed Bredero and Southern Waste to deliver and dispose of waste materials in its landfill.

On Aug. 4, 2003, the landfill company alleged that after completing the disposal of mislabeled waste in Dirt's landfill, Bredero, notified the Alabama Department of Environmental Management (ADEM) that under specific conditions that "there may be levels of mercury in the

materials [the GSP]" that Bredero and Southern Waste delivered to and disposed of in the subject landfill, which "would cause the material to trigger the mercury toxicity characteristic, and therefore [the materials] should have been managed as D009 waste."

Dirt alleged that during that time it first learned that the materials Southern Waste delivered from Bredero and disposed of in the Dirt landfill contained mercury and, contrary to Bredero and Southern Waste's representations, should have been classified and treated as hazardous waste.

Dirt sued the ShawCor Ltd. entities, Southern Waste of Alabama, Halliburton Energy Services Inc., which jointly operated the piping plant with ShawCor, Mike Koester, environmental manager of the Bredero facility, and Defendants D, E, F and G (anonymous persons, firms or corporations who had a role to manage the defendants' trash, construction and waste streams), claiming negligent misrepresentation, private nuisance and trespass.

Plaintiff's counsel argued that Bredero misrepresented the true nature of its waste to Southern Waste which, in turn, resulted in it being misrepresented to Dirt by Southern Waste. Plaintiffs' counsel contended that the defendants misrepresented the true nature of their waste to ADEM and fraudulently obtained industrial waste approval letters that allowed Bredero to dispose of its waste as if it were non-hazardous when, in fact, it was hazardous and toxic to the environment. Specifically, the defendants did not perform the proper metals testing of their products even though they had knowledge that the materials contained mercury, and that the defendants knew or should have known that hazardous waste metals testing was necessary in properly characterizing its waste byproducts, plaintiffs' counsel maintained.

The defendants denied the allegations. Defense counsel contended that Bredero did not misrepresent the true nature of its waste to Southern Waste.

**INJURIES/DAMAGES** Frederick Hart, the plaintiffs' environmental engineering expert, projected more than \$100 million to remove the hazardous materials from the landfill.

**RESULT** The jury found that Bredero Price Co., Bredero Shaw L.L.C. and ShawCor Ltd. were liable. Jurors found liability against ShawCor and Halliburton Energy Services Inc. for their joint and several liability as joint venturers. They awarded Dirt Inc. \$108 million, with each defendant paying \$2 million for punitive damages.

**DIRT INC.** \$8,000,000 punitive damages  
\$100,000,000 compensatory  
\$108,000,000

**TRIAL DETAILS** Trial Length: 3 weeks

**PLAINTIFF EXPERT(S)** **Frederick Hart**, environmental engineering, Baltimore, MD