

# THE NATIONAL LAW JOURNAL

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## Personal Injury

CASE: *Lockheed Litigation Cases*,  
Judicial Council Coordination  
Proceeding, 2967 (Super. Ct., Los  
Angeles Co.)

PLAINTIFFS' ATTORNEYS: *Thomas V. Girardi, Robert W. Finnerty and Carrie J. Rognien, of Los Angeles' Girardi & Keese; Walter J. Lack, Of Los Angeles' Engstrom Lipscomb & Lack; and Robert Garcia, of Woodland Hills, Calif.*

DEFENSE ATTORNEYS: *Laurence F. Janssen and Ruth D. Kahn, of the Los Angeles office of Washington, D.C.'s Steptoe & Johnson L.L.P.; and William Armstrong, of Oakland, Calif.'s Ogdie & Armstrong*

JURY AWARD: *\$785.4 million, reduced to \$405.4 million*

THE WORKERS WHO built such top secret military aircraft as the Stealth fighter at the Lockheed plant in Burbank, Calif., were exposed to a variety of chemicals in the manufacturing process, said plaintiffs' attorney Thomas V. Girardi. Solvents containing such toxic chemicals as toluene and xylene were involved in every part of the manufacturing process of making Stealth fighters, he said, and also in the building of the Blackbird and U-2 planes.

The Lockheed workers began suffering illnesses "ranging from cancer and brain damage to relatively minor symptoms, such as irritability or nasal congestion," said Mr. Girardi. "About one-third were severely harmed or killed. The effects of the chemicals grew with two factors, the type of occupation and the number of years exposed," he added.

About 700 workers filed a toxic-torts action against Lockheed and filed claims against about two dozen makers of the solvents, whom they charged with



providing inadequate warnings of the dangers of their chemicals. Lockheed settled in 1992 for \$33 million, and a series of trials and settlements knocked out all but five of the solvent manufacturers. The trials so far have brought plaintiffs' verdicts of \$1.6 million in 1993,

\$10.6 million in 1995, \$4.5 million in 1996 and \$20 million in 1997. All of these judgments are on appeal.

Then, in 1998, 42 plaintiffs sought damages from five defendants: Exxon Corp., Shell Oil Co., Ashland Chemical Co., E.I. Du Pont de Nemours & Co. and Unocal Corp. In response to charges that the warnings had been inadequate, the defendants blamed Lockheed for deficient safety practices. Lockheed simply disregarded the warnings, said defense counsel Laurence F. Janssen. The defendants also disputed the causation of the plaintiffs' medical problems.

In the previous trials, juries had found certain of the defendants' product warnings inadequate. For this fifth group of plaintiffs, the trial court gave collateral estoppel to these findings, applying them to this case, noted Mr. Janssen. The court also told the jury to base its award on a prior jury's findings that the defendants' conduct was oppressive, he said. As a result, the jury's only consideration was the amount of general and punitive damages, he added.

On July 30, 1998, a Los Angeles jury awarded 29 of the plaintiffs a total of \$25.4 million in compensatory damages; then, on Aug. 6, the jury added \$760 million in punitives. The jury rejected the claims of the other 13 plaintiffs, based on statute-of-limitations issues or the causation of illness.

After the verdict, the defendants filed motions to recuse the judge, claiming bias, and to set aside or reduce the award. Judge Richard C. Hubbell denied the recusal motion but did remove himself from the trials on future groups of plaintiffs in this case. On Nov. 16, Judge Hubbell cut the punitives in half. The defendants have appealed.