

CPM Obtains Top Verdict of 2014

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The heftiest California verdicts handed down in the first half of the year include a \$1.15 billion behemoth win for municipalities in a product liability fight against lead paint makers and five awards each exceeding \$100 million in damages, showcasing the indomitable pull of the world's eighth-largest economy in attracting significant legal battles, experts say.

Law360 gathered data on all of the California state and federal verdicts this year that surpassed \$50 million and the law firms that took home the wins, including powerhouses Motley Rice LLC, Cotchett Pitre & McCarthy LLP, Quinn Emanuel Urquhart & Sullivan LLP and Morgan Lewis & Bockius LLP.

"California is a big state with a big economy, and as a result there is a tremendous amount of big litigation here," said David Levine, a professor at the University of California's Hastings College of Law. "Because of the sheer amount of money being generated here, it can be tempting to bring litigation to see if you can get a piece of the pie."

Although state courts have been hobbled by huge budget reductions over the past several years, they are still in the jury trial business. The large verdicts this year signal that California remains an important venue nationally, according to Lawrence Riff, a partner at Steptoe & Johnson LLP.

"I've always taken pride in the quality of the lawyering, the bench and the controversies in California," he said. "There is nothing too important or too big for us to take on here. The California Superior Court is still a place where really important social and economic decisions are made."

According to a report last year on state court statistics, the number of jury trials remains small, with juries resolving only 4 percent of unlimited civil cases with more than \$25,000 in dispute during the fiscal year

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CPM OBTAINS TOP VERDICT OF 2014

2011-2012. But the size of the verdicts appears to be growing, according to William Oxley, a partner at Dechert LLP.

“The verdict in the lead paint case is not likely to open the floodgates to more billion-dollar verdicts, but we are seeing a general, gentle increase,” he said.

Many jurors in certain venues, such as West Los Angeles, Santa Clara County and San Francisco, are desensitized to big dollar figures, and that can affect verdict value, according to Riff.

“When jurors in Los Angeles read about the kind of money sports figures and entertainment personalities in Hollywood pull down and the kind of money involved in corporate deals ... that has a tendency overall to increase jury verdicts,” he said.

Because tort reform hasn't caught on in California like in many other states, plaintiffs lawyers see the Golden State as an attractive place to bring suit, and typically verdicts end up being higher than the awards elsewhere, according to Oxley.

“These large verdicts show the dangers of going to trial in California and why it's so important to hire the right defense lawyer,” he said. “If the defense isn't put on in the right way and the jury gets mad at you in California, you can get hit with an adverse verdict with a big number.”

Out of the top eight verdicts in California this year, four came in patent cases and two in product liability disputes.

“Patents are the lifeblood of businesses, and the numbers in patent cases are often going to be higher because of the business risks and because the value of patents is so high,” Oxley said. “Product liability verdicts can be big because it is easier for the jury to get mad at the defendant, and when the case involves multiple plaintiffs, the damages can run higher as a result.”

Here are the largest California verdicts of 2014 so far and the firms that won them:

1. \$1.15 billion in California v. Atlantic Richfield: Motley Rice, Cotchett Pitre, Law Office of Peter Earle and Mary Alexander and Associates

A California judge in January **ordered** Sherwin-Williams Co., NL Industries Inc. and ConAgra Grocery Products LLC to pay \$1.15 billion to fund a government-run program to address health risks posed by lead paint in California homes.

CPM OBTAINS TOP VERDICT OF 2014

The decision came in public nuisance litigation brought by Los Angeles, San Francisco, San Diego and seven other California municipalities in 2000.

According to the order by Judge James Kleinberg of the Santa Clara County Superior Court, the paint companies were liable because they promoted lead paint and should have known that exposure was fatal or at least detrimental to children's health.

Even after becoming aware of the dangers, the companies continued to sell the paint, Judge Kleinberg said. He rejected the paint companies' claims that they did not fully know about the hazards. The order has since been appealed.

The municipalities are represented by Joseph Cotchett, Nancy Fineman, Aron Liang and Brian Schnarr of Cotchett Pitre & McCarthy LLP, Fidelma Fitzpatrick of Motley Rice LLC, Law Office of Peter Earle and Mary Alexander and Associates.

The companies are represented variously by Arnold & Porter LLP, Skadden Arps Slate Meagher & Flom LLP, McGrath North Mullin & Kratz PC, Glynn & Finley LLP, McGuireWoods LLP, McManis Faulkner, Bartlit Beck Herman Palenchar & Scott LLP and Jones Day.

The case is The People of the State of California v. Atlantic Richfield Co. et al., case number 1:00-cv-788657, in the California Superior Court, Santa Clara County.