

## Celanese Blames Insurer For \$14M Asbestos Verdict

By **Mike Curley**

*Law360 (December 10, 2020, 2:50 PM EST)* -- Celanese Corp. is suing its insurer in Texas federal court, saying its refusal to accept six-figure settlement offers in an asbestos lawsuit led to a \$14 million jury verdict against the chemical company that the insurer now refuses to pay for.

In a complaint filed Wednesday, Celanese said Lamorak Insurance Co. and its predecessors, OneBeacon America Insurance Co. and Commercial Union Insurance Co., agreed to cover the underlying suit without reserving their rights, and even got a court order to take full control of Celanese's defense.

Over the course of the litigation, the plaintiffs made several settlement offers under \$1 million, each of which would have been well below the coverage limits, Celanese said. However, the attorneys retained by Lemorak refused to settle each time, even up to the day of the verdict, according to Celanese.

As the attorneys refused to settle, Celanese said it was kept in the dark about the actual exposure it faced in the case, and was blindsided by the \$14 million verdict, which with interest now stands at around \$17 million, according to the complaint.

Despite the fact that Lamorak's attorneys are responsible for the verdict, Celanese said, the insurer reversed course two weeks after the verdict came down. Claiming the suit was actually not covered under any of the policies, Lamorak said it would contribute \$850,000 to the verdict, according to the complaint.

Celanese is asking the court to order Lamorak to pay for the entire sum as a result of its negligent refusal to settle within policy limits and punitive damages.

The employee at the center of the suit, Dennis Seay, worked for Celanese contractor Daniel Construction Co. and did maintenance and repair work on machinery at the Celanese plant from 1971 to 1980. He filed the suit in September 2013, a month after he was diagnosed with mesothelioma. Seay died in December 2014 at 70.

At the end of a two-week trial, the jury unanimously handed Seay's family \$12 million in compensatory damages and \$2 million in punitive damages, finding Celanese was negligent in its operation of the plant. The jury found John Crane, the maker of some of the asbestos-containing gaskets Seay said he worked with, was not liable.

In February 2019, a South Carolina appeals court upheld the verdict, finding Celanese liable for Seay's exposure to asbestos and affirming the \$14 million award to the worker's family.

Celanese and Lamorak had agreed to stay and toll Celanese's claims pending the resolution of that appeal, according to the complaint, and Celanese is now suing since that appeal was rejected.

Representatives for Celanese and Lamorak could not immediately be reached for comment Thursday.

Celanese is represented by Meredith Elkins and Adam Ziffer of McKool Smith PC.

Counsel information for Lamorak was not available Thursday.

The case is Celanese Corp. v. Lamorak Insurance Co., case number 3:20-cv-02606, in the U.S. District Court for the Northern District of Texas.

--Additional reporting by Rick Archer, Brandon Lowrey and Jody Godoy. Editing by Ellen Johnson.