

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

In Re: NEW YORK CITY ASBESTOS LITIGATION

Index No. 40000/1988

This Document Relates To:

CLAUDIA DiSCALA, as Administrator of the Estate of  
JOAN ROBUSTO,

Index No. 190413/2013

Plaintiff,

-against-

CHARLES B. CHRYSTAL COMPANY, INC., *et al.*,

Defendants.

**PROPOSED JUDGMENT**

Plaintiff Claudia DiScala, as Administrator of the Estate of Joan Robusto (“Plaintiff”), having settled and discontinued this action as against a defendant or defendants whose name(s) did not appear on the verdict sheet at trial, with the sum of all settlement amounts paid, or recited to be paid, by such defendant(s) to Plaintiff being Three Hundred and Fifty Thousand and 00/100 Dollars (\$350,000.00); and

Plaintiff having settled and discontinued this action as against defendants The Proctor & Gamble Company (as successor-in-interest to The Shulton Group and/or Shulton Inc.) (“Shulton”) and Lorillard Tobacco Company (“Lorillard”), with the sum of all settlement amounts paid, or recited to be paid, by Shulton and Lorillard to Plaintiff, in the aggregate, being Two Million, One Hundred Thousand, and 00/100 Dollars (\$2,100,000.00); and

This Court having dismissed Plaintiff’s action as against Charles B. Chrystal Company, Inc., R.T. Vanderbilt Company, Incorporated, Wyeth Holdings Corporation (f/k/a American Cyanamid Company, individually and as successor-in-interest to Suzorite Mineral Products, Inc.,

f/k/a Pioneer Talc Co., a wholly-owned subsidiary of Wold Companies), Imerys Talc American, Inc. (individually and as successor-in-interest to Rio Tinto, a wholly-owned subsidiary of Luzenac, Inc.), Union Carbide Corporation, and Kaiser Gypsum Company, Inc. (collectively, the “Dismissed Defendants”) upon the Dismissed Defendants’ No-Objection Summary Judgment Motions and the parties’ stipulations to discontinuance therefore; and

This action having come on for trial against defendant Whittaker Clark & Daniels, Inc. (“WCD”) before the Honorable Martin Shulman, at a Term, Part 1 of this Court, in New York, New York, over thirteen days of trial, beginning October 23, 2015, and ending November 24, 2015, and the issues having been tried before this Court, before a jury; and

The jury having rendered a verdict in favor of Plaintiff and against WCD, and the jury having apportioned fifty percent (50%) of the fault to WCD, forty percent (40%) of the fault to Shulton, and ten percent (10%) of the fault to Lorillard; and

The jury having rendered a total award of damages to Plaintiff in the amount of Seven Million and 00/100 Dollars (\$7,000,000.00) (the “Verdict”); and

This Court, upon the post-trial motion of WCD (motion sequence no. 24), having reduced the amount of the Verdict to Three Million, Five Hundred Thousand, and 00/100 Dollars (\$3,500,000.00) (the “Reduced Verdict”), by decision and order dated June 2, 2017, and entered in the Office of the Clerk of the Supreme Court of the State of New York, in and for the County of New York on June 19, 2017 (the “Decision and Order,” NYSCEF Doc. No. 806);

UPON all pleadings and memoranda heretofore filed;

UPON all proceedings, including thirteen days of trial, ending November 24, 2015;

UPON the Decision and Order;

NOW, on motion of E. Leo Milonas, attorney for WCD,

IT IS ORDERED, ADJUDGED, AND DECREED that, pursuant to Section 15-108 of the New York General Obligations Law (“GOL § 15-108”), the Reduced Verdict be and is hereby further reduced by the amount of settlement monies recited or received from tortfeasors not appearing on the verdict sheet, totaling Three Hundred and Fifty Thousand and 00/100 Dollars (\$350,000.00), leaving a net verdict of Three Million, One Hundred and Fifty Thousand, and 00/100 Dollars (\$3,150,000.00); and

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, pursuant to GOL § 15-108 and Section 1601 of the New York Civil Practice Law and Rules, the aforesaid net verdict be and is hereby further reduced by the total amount of settlement monies recited or received from tortfeasors other than WCD appearing on the verdict sheet (to wit, Shulton and Lorillard), totaling Two Million, One Hundred Thousand, and 00/100 Dollars (\$2,100,000.00) (that sum being greater than the equitable shares of the aforementioned net verdict of such settling tortfeasors), leaving a net verdict of One Million, Fifty Thousand, and 00/100 Dollars (\$1,050,000.000); and

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that costs and disbursements are taxed in the sum of One Thousand, Three Hundred Fifty, and 00/100 Dollars (\$1,350.00), bringing the total net verdict to One Million, Fifty One Thousand, Three Hundred and Fifty, and 00/100 Dollars (\$1,051,350.00) (the “Total Verdict”); and

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that post-verdict interest on the Total Verdict, pursuant to CPLR §§ 5002 and 5004, is awarded at the rate of nine percent (9%) per annum, not compounded, starting on November 24, 2015, in the amount of \_\_\_\_\_ bringing the total award to \_\_\_\_\_

Dollars as of \_\_\_\_\_ (the “Judgment”), with interest to continue to accrue at nine percent (9%) per annum, not compounded, until the Judgment is paid.

The Clerk of the Court is directed to enter this Judgment.

Dated: \_\_\_\_\_, 2017

ENTER

\_\_\_\_\_  
J.S.C.