

## Top Calif. Verdicts Of 2014 — And The Firms That Won Them

By Erin Coe

*Law360, San Diego (July 14, 2014, 4:25 PM ET)* -- 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 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.

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 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.

## **2. \$283 million in ViaSat v. Space Systems: Quinn Emanuel**

Digital communications company ViaSat Inc. notched a win in April when a federal jury in the Southern District of California awarded it \$283 million in damages after finding that Space Systems/Loral LLC infringed three of ViaSat's patents relating to satellite networking communications technology and breached the parties' contract.

The jury determined that Space Systems incorporated ViaSat's patented technology into satellites it manufactured and sold. It awarded damages of \$181 million for patent infringement and \$102 million on ViaSat's claim that Space Systems breached a contract to build satellites for ViaSat. The court is now considering post-trial motions.

ViaSat is represented by Sean Pak, Charles Verhoeven, Amy Candido, Eric Wall, Yury Kapgan, Vincent Pollmeier and Adam Wolfson of Quinn Emanuel Urquhart & Sullivan LLP.

Space Systems is represented by Patrick Bageant, Jacob Buchdahl, Amanda Bonn, William Carmody, Marc Seltzer, Joseph Grinstein, William Merrill, Ian Crosby, Rachel Black and Mark Musico of Susman Godfrey LLP.

The case is ViaSat Inc. et al. v. Space Systems/Loral Inc. et al., case number 3:12-cv-00260, in the U.S. District Court for the Southern District of California.

## **3. \$131.2 million in Alfred E. Mann Foundation v. Cochlear Corp.: Morgan Lewis**

Handing down a \$131.2 million verdict against Cochlear Ltd., a Central District of California jury in January **found** that the Australia-based company had infringed two patents covering cochlear implant technology owned by the Alfred E. Mann Foundation for Scientific Research.

AMF initially brought the suit in 2007, but it was dismissed in May 2009 when a California federal judge ruled that AMF had lost its right to sue for infringement because it had licensed the patents to another company. The Federal Circuit overturned the decision and put the case on track for trial in 2010.

AMF is represented by Daniel Johnson Jr., Daniel Grunfeld, Jason E. Gettleman, Michael J. Lyons and Rachel M. Walsh of Morgan Lewis & Bockius LLP.

Cochlear is represented by Bruce G. Chapman, Manuel C. Nelson, Dennis J. Smith, Laura M. Burson and Scott R. Miller of Sheppard Mullin Richter & Hampton LLP.

The case is Alfred E. Mann Foundation for Scientific Research et al. v. Cochlear Corp. et al., case number 2:07-cv-08108, in the U.S. District Court for the Central District of California.

## **4. \$119.6 million in Apple v. Samsung: Morrison & Foerster, WilmerHale and Gibson Dunn**

In the long-running smartphone battle between Apple Inc. and Samsung Electronics Co. Ltd., a jury in the Northern District of California in May ordered Samsung to pay \$119.6 million in damages for infringing three of Apple's iPhone patents.

The award was far less than the \$2.19 billion Apple claimed Samsung owed it in damages and the \$930 million Apple had received from a federal jury in a 2012 infringement verdict involving other Samsung

products. Apple is now seeking a new trial, while Samsung has asked the court to overturn the verdict.

Apple is represented by Harold J. McElhinny, Rachel Krevans, James P. Bennett and Erik J. Olson of Morrison & Foerster LLP, William F. Lee and Mark D. Selwyn of WilmerHale, and Josh A. Krevitt of Gibson Dunn.

Samsung is represented by Charles K. Verhoeven, Kevin A. Smith, Kevin P.B. Johnson, Victoria F. Maroulis, William C. Price and Michael L. Fazio of Quinn Emanuel Urquhart & Sullivan LLP.

The case is Apple Inc. v. Samsung Electronics Co. Ltd. et al., case number 5:12-cv-00630, in the U.S. District Court for the Northern District of California.

#### **5. \$110.1 million in Andrade v. MHC: Endeman Lincoln**

In April, a jury in the Santa Clara County Superior Court awarded \$110.1 million to 61 residents of a mobile home property, finding that real estate investment trust Equity Lifestyle Properties Inc. was guilty of breach of contract, negligence and nuisance for failing to maintain the development.

The verdict, which came nearly five years after a group of residents filed suit in late April 2009, held that Equity Lifestyle was liable for claims that the California Hawaiian mobile home property in San Jose had improperly maintained sewage, electrical and water systems.

Equity Lifestyle said at the time that the verdict was unfair because the plaintiffs had allegedly never shown evidence that they had sought attention from any health care provider for injuries or emotional distress caused by the alleged disrepair of the property. An attorney for Equity Lifestyle told Law360 on Friday that post-trial motions are being prepared in the case and should be filed in a month.

The plaintiffs are represented by Henry E. Heater, James C. Allen and David Semelsberger of Endeman Lincoln Turek & Heater LLP.

Equity Lifestyle is represented by Clarke B. Holland and Brendan J. Fogarty of LHB Pacific Law Partners LLP, Steven S. Fleischman of Horvitz & Levy LLP and Robie & Matthai APC.

The case is Damon L. Andrade et al., v. MHC Operating Limited Partnership et al., case number 109CV140751, in the Superior Court of the State of California, County of Santa Clara.

#### **6. \$105 million in Power Integrations v. Fairchild Semiconductor: Fish & Richardson**

Power Integrations Inc. scored a victory in March when a Northern District of California jury ordered rival Fairchild Semiconductor Inc. to pay \$105 million in damages for infringing its patents on energy-efficient power supplies and chargers used with many modern electronics.

The lawsuit was brought by Power Integrations in 2009. The company claimed that its patents allowed it essentially to create the market for smaller and lighter power supplies, but that Fairchild then jumped into the same market and began selling competing products at a much lower price. Fairchild's motion for a new trial is pending.

Power Integrations is represented by Frank Scherkenbach, Howard Pollack and Michael Headley of Fish & Richardson PC.

Fairchild is represented by Blair Jacobs, Christina Ondrick, Robert Walters, Leigh Martinson, A. Marisa Chun and Jeremiah Armstrong of McDermott Will & Emery LLP.

The case is Power Integrations Inc. v. Fairchild Semiconductor International Inc. et al., case number 3:09-cv-05235, in the U.S. District Court for the Northern District of California.

### **7. \$75.3 million in Grow Land v. McCarthy Family Farms: Georgeson Belardinelli and Baker Kenner**

A Kings County Superior Court jury in March awarded \$128.6 million to a proposed solar-powered city after determining that a Bay Area developer and others were liable for breach of contract and intentional interference over deals for land from which the city plans to derive water. But through post-trial motions, the defendants were able to reduce the award to \$75.3 million in June.

Grow Land and Water LLC and Kings County Ventures LLC allege that plans for the sustainable community development of Quay Valley in Kings County had to be suspended after McCarthy Family Farms Inc. sold 22,250 acres of real property to Sandridge Partners despite prior agreements with the plaintiffs.

Sandridge and the other defendants appealed the final award Friday.

Plaintiffs are represented by C. Russell Georgeson and Christopher B. Noyes of Georgeson Belardinelli and Noyes, and Phillip A. Baker of Baker Kenner & Nahra LLP.

Sandridge is represented by Marshall C. Whitney of McCormick Barstow LLP.

The case is Grow Land and Water LLC et al. v. McCarthy Family Farms Inc. et al., case number 09C 0378, in the Superior Court of the State of California in, County of Kings.

### **8. \$93.2 million in LA County Metropolitan Transportation Authority v. Parsons-Dillingham: Nossaman**

A Los Angeles County Superior Court judge in February awarded \$93.2 million to Los Angeles County Metropolitan Transportation Authority in its long-running suit against a Parsons Corp.-Dillingham Construction joint venture, holding Parsons had excessively billed the MTA for overhead during the construction of the city's Metro Red Line subway decades ago. The award was an increase from the judge's \$27.7 million tentative judgment in August.

The Parsons-Dillingham litigation began in California state court in 1996 when J. Martin Gerlinger, a former Parsons Corp. finance manager, filed a False Claims Act lawsuit alleging the company ripped off the MTA. The MTA intervened in Gerlinger's complaint, and the authority ultimately filed a lawsuit that was consolidated with Gerlinger's.

Parsons-Dillingham filed a notice of appeal in April.

MTA is represented by Thomas D. Long and Winfield D. Wilson of Nossaman LLP.

Parsons-Dillingham is represented by Phyllis Kupferstein of Kupferstein Law.

The case is Los Angeles County Metropolitan Transportation Authority v. Parsons-Dillingham Metro Rail

Construction Manager Joint Venture et al., case number BC150298, in the Superior Court of the State of California, County of Los Angeles.

*Methodology: Law360 reviewed U.S. jury and bench trial verdicts that occurred from Jan. 1-June 30, 2014. Verdicts had to occur at the trial court stage, and verdicts or awards reinstated on appeal were not considered. The verdicts considered all had actual and punitive damages of at least \$50 million combined.*

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