



PCB exposure caused variety of illnesses, plaintiffs argued

Type: Verdict-Plaintiff

Amount: \$857,000,000

State: Washington

Venue: King County

Court: King County Superior Court, WA

Injury Type(s):

- *brain* - encephalopathy; brain abnormalities
- *other* - lupus; lesion; hypothyroidism; aggravation of pre-existing condition
- *urological* - kidney
- *sensory/speech* - vestibular deficits
- *pulmonary/respiratory* - reactive airways disease
- *gastrointestinal/digestive* - gastrointestinal complications

Case Type:

- *Toxic Torts*
- *Products Liability* - Design Defect; Failure to Warn; Manufacturing Defect

Case Name: Angela M. Bard and William Bard, individually and as legal guardians of minor J.D.B.; Jessica L. Bard; John M. Beutler; Stacy R. Mullen-DeLand and Eric DeLand, individually and as legal guardians of minors A.S.M.D. and C.R.M.D.; Donya C. Grant and Weldon J. Grant, individually and as legal guardians of minors H.B.G, K.M.G., M.A.G. and R.K.G; Ceanna N. Heit; Melanie L. Long, individually and as legal guardians of minors A.D.L., A.R.L. and I.R.L.; Ilyana A. Long; Holly A. Mills, et al. v. Monsanto Company, a Delaware corporation; Solutia, Inc., a Delaware corporation; Pharmacia LLC, a Delaware limited liability corporation, f/k/a Pharmacia Corporation; State of Washington; Monroe School District No. 103 d/b/a Monroe Public Schools; Union High School District No. 402; Snohomish Health District; and Roes 1-10, No. 18-2-00001-7

Date: December 18, 2023

Plaintiff(s):

- A. D. L., (, 0 Years)
- A. R. L., (, 0 Years)
- H. B. G., (, 0 Years)
- I. G. P., (, 0 Years)
- I. R. L., (, 0 Years)
- I. S. W., (, 0 Years)
- K. M. G., (, 0 Years)
- M. A. G., (, 0 Years)
- M. E. P., (, 0 Years)
- N. D. S., (, 0 Years)
- R. K. G., (, 0 Years)
- A. S. M.D., (, 0 Years)
- C. R. M.D., (, 0 Years)
- K. R.M. S., (, 0 Years)
- Eric DeLand, (Male, 0 Years)
- Donya C Grant, (Female, 0 Years)
- James Savery, (Male, 0 Years)
- William Bard, (Male, 0 Years)
- Angela M. Bard, (Female, 0 Years)
- Ceanna N. Heit, (Female, 0 Years)
- Holly A. Mills, (Female, 0 Years)
- Ilyana A. Long, (Female, 0 Years)
- Jill E. Savery, (Female, 0 Years)
- Jordan D. Bard, (Female, 0 Years)
- Jessica L. Bard, (Female, 0 Years)
- Joel Pritchett, (Male, 0 Years)
- John M. Beutler, (Male, 0 Years)
- Megan E. Savery, (Female, 0 Years)
- Melanie K. Long, (Female, 0 Years)
- Weldon J. Grant, (Male, 0 Years)
- James L. Woodard, (Male, 0 Years)
- Kelsie Califano, (Female, 0 Years)
- Shannon L. Savery, (Female, 0 Years)
- Cheryl T. Pritchett, (Female, 0 Years)
- Illyeanna Wolfstorm, (Female, 0 Years)
- Arica L. Smith-Simmer, (Female, 0 Years)
- Stacy R. Mullen-DeLand, (Female, 0 Years)

**Plaintiff
Attorney(s):**

- Michael S. Wampold; PWRFL; Seattle WA for Angela M. Bard,, Jessica L. Bard,, Jordan D. Bard,, Jill E. Savery,, Megan E. Savery,, Shannon L. Savery,, Kelsie Califano
- Felix Gavi Luna; PWRFL; Seattle WA for Angela M. Bard,, Jessica L. Bard,, Jordan D. Bard,, Jill E. Savery,, Megan E. Savery,, Shannon L. Savery,, Kelsie Califano
- Keith Bruno; Trial Lawyers for Justice; Irvine CA for Angela M. Bard,, Jessica L. Bard,, Jordan D. Bard,, Jill E. Savery,, Megan E. Savery,, Shannon L. Savery,, Kelsie Califano
- Theresa Bowen Hatch; Trial Lawyers for Justice; Carlsbad CA for Angela M. Bard,, Jessica L. Bard,, Jordan D. Bard,, Jill E. Savery,, Megan E. Savery,, Shannon L. Savery,, Kelsie Califano
- Adele Daniel; Keller Rohrback; Seattle WA for Angela M. Bard,, Jessica L. Bard,, Jordan D. Bard,, Jill E. Savery,, Megan E. Savery,, Shannon L. Savery,, Kelsie Califano

**Plaintiff Expert
(s):**

- Chad J. Prusmack M.D.; Neurosurgery; Lone Tree, CO called by: Michael S. Wampold, Felix Gavi Luna, Keith Bruno, Theresa Bowen Hatch, Adele Daniel
- Keri C. Hornbuckle Ph.D.; Civil; Iowa City, IA called by: Michael S. Wampold, Felix Gavi Luna, Keith Bruno, Theresa Bowen Hatch, Adele Daniel
- Lisa M. Mani M.D.; Occupational Medicine; Birmingham, AL called by: Michael S. Wampold, Felix Gavi Luna, Keith Bruno, Theresa Bowen Hatch, Adele Daniel
- David Rosner Ph.D.; Public Health; New York, NY called by: Michael S. Wampold, Felix Gavi Luna, Keith Bruno, Theresa Bowen Hatch, Adele Daniel
- Kevin Coghlan M.S., CIH; Industrial Hygiene; Newton, MA called by: Michael S. Wampold, Felix Gavi Luna, Keith Bruno, Theresa Bowen Hatch, Adele Daniel
- Pamela J. Lein Ph.D.; Pharmacology; Davis, CA called by: Michael S. Wampold, Felix Gavi Luna, Keith Bruno, Theresa Bowen Hatch, Adele Daniel
- Pamela Mahoney Ph.D.; Epidemiology; Valley Glen, CA called by: Michael S. Wampold, Felix Gavi Luna, Keith Bruno, Theresa Bowen Hatch, Adele Daniel
- Bradley A. Jabour M.D.; Neuroradiology; Los Angeles, CA called by: Michael S. Wampold, Felix Gavi Luna, Keith Bruno, Theresa Bowen Hatch, Adele Daniel
- Kenneth R. Spaeth M.D.; Occupational Medicine; New York, NY called by: Michael S. Wampold, Felix Gavi Luna, Keith Bruno, Theresa Bowen Hatch, Adele Daniel
- Michael H. Shannon M.D.; Endocrinology; Olympia, WA called by: Michael S. Wampold, Felix Gavi Luna, Keith Bruno, Theresa Bowen Hatch, Adele Daniel
- Richard J. Perrillo Ph.D.; Neuropsychology; San Francisco, CA called by: Michael S. Wampold, Felix Gavi Luna, Keith Bruno, Theresa Bowen Hatch, Adele Daniel
- Richard L. DeGrandchamp Ph.D.; Toxicology; Denver, CO called by: Michael S. Wampold, Felix Gavi Luna, Keith Bruno, Theresa Bowen Hatch, Adele Daniel

Defendant(s):

- Monsanto Co.
- Solutia Inc.
- Pharmacia LLC
- State of Washington
- Snohomish Health District
- Monroe School District No. 103
- Union High School District No. 402

**Defense
Attorney(s):**

- Adam E. Miller; Shook Hardy & Bacon; St. Louis, MO for Monsanto Co., Solutia Inc., Pharmacia LLC
- Jennifer L. Campbell; Bryan Cave Leighton Paisner LLP; Seattle, WA for Monsanto Co., Solutia Inc., Pharmacia LLC
- Hunter K. Ahern; Shook Hardy & Bacon; Seattle, WA for Monsanto Co., Solutia Inc., Pharmacia LLC

**Defendant
Expert(s):**

- Nadia H. Moore Ph.D.; Toxicology; Redmond, VA called by: for Adam E. Miller, Jennifer L. Campbell, Hunter K. Ahern
- Uresh S. Patel M.D.; Neuroradiology; Seattle, WA called by: for Adam E. Miller, Jennifer L. Campbell, Hunter K. Ahern
- Aniket Sidhaye M.D.; Endocrinology; Baltimore, MD called by: for Adam E. Miller, Jennifer L. Campbell, Hunter K. Ahern
- Robert J. McCunney M.D.; Occupational Medicine; Boston, MA called by: for Adam E. Miller, Jennifer L. Campbell, Hunter K. Ahern
- Christi M. Kenyon M.D.; Rheumatology; Seattle, WA called by: for Adam E. Miller, Jennifer L. Campbell, Hunter K. Ahern
- Octavio Choi M.D., Ph.D.; Neuropsychiatry; Stanford, CA called by: for Adam E. Miller, Jennifer L. Campbell, Hunter K. Ahern
- Lawrence C. Murphy M.D.; Neurology; Seattle, WA called by: for Adam E. Miller, Jennifer L. Campbell, Hunter K. Ahern
- Elizabeth A. Ziegler Ph.D.; Neuropsychology; Spokane, WA called by: for Adam E. Miller, Jennifer L. Campbell, Hunter K. Ahern

Facts:

Four plaintiff students and two plaintiff parents at Sky Valley Education Center (a public school in Monroe), along with a plaintiff student at Monroe Middle School, claimed exposure to polychlorinated biphenyls, or PCBs. The schools' fluorescent light ballasts contained PCBs as component parts. PCBs are a family of chemical compounds used in electrical equipment, such as transformers and capacitors, and plasticizers. The plaintiffs also alleged the caulking around some of the schools' doors and windows contained PCBs. The PCB-containing products were installed no later than 1977.

All PCBs sold in the U.S. from 1930s to 1977 were designed and produced by "Old Monsanto," a company named Monsanto Co. that later became Pharmacia LLC. In 1976, after studies showed a link between PCB exposure and various health problems, including cancer, Congress authorized the Environmental Protection Agency to ban the production of PCBs. Old Monsanto voluntarily stopped making and selling PCBs, and the EPA ban took effect about two years later, in 1979.

Monroe public schools were tested for PCBs in 2014, and elevated levels were found. Remediation efforts lasted until about 2017. "New Monsanto" was a company named Monsanto Co. that was formed after Old Monsanto had stopped making and selling PCBs. New Monsanto never made or sold PCBs, nor did Solutia Inc., a chemical company spun off from New Monsanto.

At some point, Washington State, Union High School District No. 402 and Snohomish Health District ceased to be parties to the lawsuit. Later, partly to simplify the pleadings

and streamline the trial, the plaintiffs and remaining defendants entered into several stipulations. The stipulations included that all remaining defendants would be dismissed except Pharmacia and any settlement or final judgment in the plaintiffs' favor would be satisfied by New Monsanto on behalf of the defendants.

The case originally included many more plaintiffs, but they were no longer in the case at the time of trial. This case was one of several alleging PCB exposure at Sky Valley.

Of the plaintiffs at trial, the Bards alleged their exposure occurred from 2011 to 2015, and the Saverys claimed exposure from 2011 to 2016. Califano, the Monroe Middle School student, alleged exposure from 2006 to 2009.

The causes of action submitted to the jury were manufacturing defect, design defect, warnings defect and negligence for post-sale failure to warn.

Plaintiffs' counsel argued that Monsanto knew long before 1976 that PCBs were extremely dangerous. Nevertheless, counsel alleged, the company continued to represent that PCBs were safe and to purvey the mixtures for use in public buildings, including schools. The plaintiffs' medical and toxicology experts opined that, contrary to the defendants' assertions, any level of exposure to PCBs is unsafe.

The defendants denied the allegations, including any product defect or negligence. Further, the defense argued that, if the plaintiffs were exposed to PCBs at all, the levels of exposure were extremely low and too low to have been a proximate cause of the alleged injuries. The defense contended that some of the plaintiffs underwent a blood test for PCBs in 2019, but the tests did not show elevated levels.

The defendants also asserted that Washington's products liability statute of repose, which shields a manufacturer from liability for harm caused after the product's "useful safe life," has expired. Under the statute, a product's useful safe life is presumed to be 12 years after the product's delivery. The defense argued that the PCB-containing products were installed at Sky Valley and Monroe Middle School in the 1960s.

The plaintiffs' counsel argued that the harm was caused during the product's useful safe life. Alternatively, as an exception under the statute, the plaintiffs asserted that Pharmacia had intentionally misrepresented or concealed facts about its product.

Injury:

The seven trial plaintiffs alleged exposure to PCBs.

Califano developed systemic lupus erythematosus (lupus) and mild chronic toxic encephalopathy. She also experienced menstrual irregularities, had frequent kidney stones requiring surgery and had several ovarian cysts surgically removed. In addition, she experienced a high-risk pregnancy and life-threatening postpartum complications.

Califano's lupus is managed with medication, but she remains at risk for future complications, such as cardiovascular issues, cancer and osteonecrosis. The illness and medication also increase her risk of infection. She continues to develop ovarian cysts and kidney stones and, should she decide to have more children, she will be at risk for another complicated pregnancy and birth.

Former student Shannon Savery developed Hashimoto's thyroiditis, as well as reactive airway disease, and her Hashimoto's will likely progress as she ages. She will have to remain under active care and on medication for the rest of her life. She will also have an increased risk of child-bearing complications. She additionally suffers from severe chronic toxic encephalopathy and is at increased risk of dementia as she ages.

Former student Megan Savery developed severe chronic toxic encephalopathy and is at increased risk of dementia as she ages. She also suffers from reactive airway disease.

Parent plaintiff Jill Savery suffers from severe chronic toxic encephalopathy, menstrual abnormalities and uterine fibroids. Moreover, the presentation of her multiple sclerosis changed. She had previously been diagnosed with relapsing-remitting multiple sclerosis, but after her alleged PCB exposure, she began developing tumefactive brain lesions.

Former student Jessica Bard developed severe chronic toxic encephalopathy and is at increased risk of dementia as she ages.

Former student Jordan Bard developed autoimmune encephalitis, as well as severe chronic toxic encephalopathy, putting her at increased risk of dementia as she ages.

Parent plaintiff Angela Bard developed severe chronic toxic encephalopathy, severe vestibular and gastrointestinal issues, and menstrual irregularities.

All the trial plaintiffs alleged that PCB exposure elevated their risk of developing cancer, dementia and autoimmune diseases.

Each plaintiff sought \$15 million to \$25 million in actual damages. They also sought punitive damages.

The defense denied that PCBs caused the alleged injuries. According to the defense, the schools' PCB levels were low, and the plaintiffs' PCB levels were normal for the U.S. population and posed no health risk.

Result:

The jury found the product was not reasonably safe in construction, was not reasonably safe as designed, and was not reasonably safe because adequate warnings or instructions were not supplied with it, and that Pharmacia was negligent for post-sale failure to warn. The jury also found the plaintiffs were entitled to actual and punitive damages on the basis of design defect, warnings defect and negligent post-sale failure to warn. It determined that the plaintiffs' damages totaled \$857,000,000, including \$784,000,000 in punitive damages.

The jury also found that the plaintiffs' harm occurred within the useful safe life of the product. While that finding may have barred recovery on the products-liability claims, it did not bar recovery on the negligence claim.

Kelsie Califano

\$ 112,000,000 Punitive Exemplary Damages

\$ 7,000,000 actual damages

\$ 119,000,000 Plaintiff's Total Award

James Woodard

I. W.

Illyeanna Wolfstorm

N. S.

K. S.

Arica Smith-Simmer

Shannon Savery

\$ 112,000,000 Punitive Exemplary Damages

\$ 12,000,000 actual damages

\$ 124,000,000 Plaintiff's Total Award

Megan Savery

\$ 112,000,000 Punitive Exemplary Damages

\$ 4,000,000 actual damages

\$ 116,000,000 Plaintiff's Total Award

James Savery

Jill Savery

\$ 112,000,000 Punitive Exemplary Damages

\$ 3,000,000 actual damages

\$ 115,000,000 Plaintiff's Total Award

M. P.

I. P.

Joel Pritchett

Cheryl Pritchett

Holly Mills

Ilyana Long

I. L.

A. L.

A. L.

Melanie Long

Ceanna Heit

R. G.

M. G.

K. G.

H. G.

Weldon Grant

Donya Grant

Eric DeLand

C. M.D.

A. M.D.

Jordan Bard

\$ 112,000,000 Punitive Exemplary Damages

\$ 12,000,000 actual damages

\$ 124,000,000 Plaintiff's Total Award

Stacy Mullen-DeLand

John Beutler

William Bard

Jessica Bard

\$ 112,000,000 Punitive Exemplary Damages

\$ 15,000,000 actual damages

\$ 127,000,000 Plaintiff's Total Award

Angela Bard

Trial Information:

Judge: Jim Rogers

Trial Length: 0

**Trial
Deliberations:** 0

**Editor's
Comment:** This report is based on information that was provided by plaintiffs' counsel. Additional information was gleaned from court documents. Defense counsel did not respond to the reporter's phone calls.

Writer John Schneider