
Hughes Hubbard & Reed

Hughes Hubbard Wins Defense Verdict for Lorillard in Kentucky

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Hughes Hubbard & Reed scored a sweeping victory in January for Lorillard Tobacco Company in a products liability case. A state court jury in Louisville, Kentucky found that Lorillard was not liable in a wrongful death suit filed by the widow of a former employee alleging he developed cancer from exposure to asbestos in the filter of original Kent cigarettes.

The trial victory is the first for Lorillard since Hughes Hubbard opened a Kansas City, Missouri office in the new year to focus on the company's litigation needs.

"This verdict is a major victory for Lorillard against experienced and aggressive counsel in a plaintiff-friendly jurisdiction," said James Berger, who led the Hughes Hubbard team in the case. "Despite the odds, our team rose to the occasion and convinced the jury that Lorillard acted responsibly in designing, testing and selling Kent with the asbestos-containing filter in the 1950s."

On Jan. 26, after a 16-day trial, the jury returned a complete defense verdict for Lorillard and its component part supplier Hollingsworth & Vose (H&V), maker of the filter media used in the original Kent cigarettes. Twenty-eight other defendants settled or were dismissed before the trial began.

The jury found that neither the cigarette filter nor H&V's bulk filter material was defectively designed, that neither Lorillard nor H&V had failed to warn McGuire of the risk of asbestos release in the filter, and that any fibers released when McGuire smoked the cigarettes did not contribute to his disease.

Wanda McGuire claimed that her late husband, William McGuire, developed mesothelioma from smoking original Kent cigarettes with an asbestos-containing filter in the early 1950s. She also alleged his cancer was a result of his exposure as a Lorillard factory worker from August 1953 to September 1954 to the bulk material supplied by H&V used to make the Kent filters. She sought compensatory damages of up to \$15.3 million and punitive damages of up to \$40 million.

Lorillard argued that the original Kent filter was a highly efficient, state-of-the-art filter. Testing of the filter in the 1950s demonstrated that it either released no asbestos fibers or only trace amounts that would be insufficient to cause disease. The disease at issue in the case, mesothelioma, was not definitively linked to asbestos until four years after Lorillard stopped using it as a component in its filters in 1956.

The Hughes Hubbard members on Berger's team included Tara Lamer, Sally Merriam, Mike Mitchell and Kathy Jeanetta. Ricardo Cedillo of Davis, Cedillo & Mendoza in San Antonio and David Schaefer of Dinsmore & Shohl in Louisville were co-counsel for Lorillard.

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James E. Berger

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