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PRESS RELEASE

March 12, 2010, 12:28 p.m. EST · Recommend · Post:

Jury Awards \$50 Million in Punitive Damages Against Shell Oil Subsidiary, According to Gwire Law Offices

Justice Served After Long Fight Regarding Oil Company's Failure to Disclose Key Information to Gas Station Owner



SAN FRANCISCO, Mar 12, 2010 (BUSINESS WIRE) -- Sometimes, the little guy really does win. After a legal battle spanning two lawsuits and more than eight years, it took a Los Angeles Superior Court jury just one and a half days of deliberation to award \$50 million in punitive damages to the owner of a Riverside County gas station who had been duped by Equilon Enterprises (dba Shell Oil Products, US), a subsidiary of Royal Dutch Shell (the world's largest company, according to Forbes). The jury verdict, handed down Tuesday, March 9th, is expected to be reviewed by the trial judge within approximately 45 days. William Gwire, Esq. of Gwire Law Offices in San Francisco represented Elias Atallah in the lawsuit against Shell. The suit alleged that Shell had intentionally concealed important facts from Mr. Atallah during negotiations and an extended escrow for his purchase of a gas station in October 2003.

Mr. Atallah's purchase of the station was the culmination of the first legal action brought by him against Shell, a year-long legal battle in which Mr. Atallah, who had been operating the station as a franchisee for 10 years, sued Shell to enforce his right to buy the station under a federal law designed to protect franchisees. Just prior to the settlement of that action, Shell learned that both Plaintiff's station and another station Shell owned across the street were about to become the target of costly protections and safeguards being demanded by state agencies.

Mr. Atallah claimed that after agreeing to sell him the station, Shell executives and employees involved in the sale (and through an extended escrow) withheld critical information from him, including meetings that Shell representatives attended in which the agencies outlined their demands for extensive and expensive contingency plans, containment systems and indemnity agreements. During this entire period, which spanned almost 10 months, Mr. Atallah and his attorney were kept in the dark. (Shell, meanwhile, decided to sell the station across the street from Mr. Atallah's due to what the company itself described as an "unacceptable environmental risk.")

Only after Mr. Atallah closed escrow on his station did he discover the problems that had been brewing and what he was in for. He was never able to reopen the site as a gas station. In 2005, Mr. Atallah, through Mr. Gwire, filed a second lawsuit against Shell, this time for fraud. In 2006, a Los Angeles Superior Court jury found Shell guilty of intentional fraud and concealment, awarding Mr. Atallah \$1.65 million in compensatory damages. The jury also found that Shell had acted with "oppression, malice or fraud", clearing the way for the jury to award punitive damages. At that time however, the trial judge ruled the evidence being offered to establish Equilon's financial condition was insufficient, and refused to allow the punitive damage issue to go to the jury.

Shell appealed the \$1.65 million compensatory damages verdict while Mr. Atallah appealed the judge's decision on the punitive damages matter. In late 2008, the California Court of Appeals upheld Mr. Atallah's \$1.65 million compensatory damage verdict and also decided that the trial judge had been premature in dismissing the punitive damage claim. The appellate court ruled that Mr. Atallah could, in fact, seek punitive damages.

The case returned to the Los Angeles Superior Court to a new trial judge and a new jury to determine the amount, if any, of punitive damages to be assessed against Shell. After a two-week trial the jury handed down its \$50 million verdict. Mr. Gwire notes that presenting the punitive damages case to 12 new jurors was an unusual legal situation and required much of the original case to be re-presented because "reprehensibility" is a major factor in determining the amount of punitive damages.

Three of California's most prominent law firms represented Shell at different points throughout the litigation: Fulbright & Jaworski handled the original trial; Munger, Tolles & Olson represented Shell on the appeal; and Quinn Emanuel handled the trial of the punitive damage phase. Mr. Gwire, whose firm numbers five attorneys, handled both trials completely by himself. He said his numerous attempts to try and negotiate a settlement at various junctures over the years went nowhere, even though his client would have been

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satisfied with a mid-six figure settlement early on.
 "In over 30 years of practice, having gone up against some of the biggest and best firms in the country, I have never seen a company throw resources against a party like Equilon threw against us," said Mr. Gwire, noting that Shell had several attorneys and at least one in-house attorney in court for the company every day throughout both trials. "I know this was very personal for Mr. Atallah, but I also saw it become very personal to Shell, and I think the arrogance of Shell got in the way of its business judgment."
 Mr. Gwire noted that for the last several years, Shell has been in the process of divesting itself of all its service stations nationwide, selling off the properties to middlemen jobbers. "I think this case was Shell trying to send a message to all of its dealers who might think of taking them on. Instead, I think the jury sent Shell the message that it needs to treat its dealers with honesty and respect," he said.
 Mr. Gwire, who specializes in Plaintiff's attorney malpractice cases and took on the case at Mr. Atallah's special request, noted that "Elias Atallah personifies an optimistic and entrepreneurial spirit, everything America stands for." Mr. Atallah, a Christian Lebanese immigrant, was 17-years old when his family fled Lebanon for the United States during the Lebanese Civil War.
 "He's an absolute believer in the American system, and the quintessential little guy fighting for his rights. The jury loved him and appreciated what he stood for. I was thrilled to have been his advocate for the entire process--this was a wonderful case to be involved in."
 Note: William Gwire and Elias Atallah are available for interviews. Jurors may also be available to comment. A list of the defense attorneys is available upon request.
 SOURCE: Gwire Law Offices

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