

Another Welding Fume Case Dismissed After Fraud Discovery

Yet another case selected for trial in the consolidated federal welding fume litigation has been voluntarily dismissed for fraud. Plaintiff Mary Lopez dismissed her suit after defendants discovered she made false representations on her tax returns. *Lopez* is the fifth welding fume case dismissed for fraud after being set for trial. Two previous cases were dismissed after defendants obtained video of plaintiffs engaged in activities they swore they were unable to perform due to their alleged welding fume related injuries. Two other cases were dismissed after defendants discovered that the plaintiffs had misrepresented past drug and alcohol abuse.

The recurrence of fraud in cases selected by plaintiffs for trial demonstrates a fundamental truth in welding fume litigation: the lack of plaintiffs with legitimate claims. After the *Lopez* dismissal, John Beisner, lead counsel for several welding rod manufacturers, issued the following statement: “This case had no merit and should never have been brought before the Court in the first place. “We believe the plaintiff’s alleged ailments were completely fabricated, similar to those of numerous other plaintiffs in this litigation. “Time and again in this litigation, we are finding that plaintiffs have misrepresented their conditions or symptoms.” Beisner went on to note: “What happened here is that lawyers filed a lot of lawsuits without any basis, and now they are being forced to dismiss case after case because they are meritless – or in the worst case scenarios, downright fraudulent.”

The *Lopez* dismissal comes on the heels of a series of jury trials in welding fume cases. Plaintiffs recently won two trials and were awarded damages by juries for the first time since 2003. Last month, the industry won a consolidated case involving four separate plaintiffs in Louisiana. After a six week trial, the jury returned a verdict in favor of the defendants on all counts after deliberating less than an hour. To date, only 3 of the 23 plaintiffs who have brought their claims before juries have been awarded damages.

Meanwhile, the number of welding fume cases continues to decline. As a result of voluntary and court-ordered dismissals, there are currently less than 500 remaining cases pending in the federal Multi District Litigation.

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