

TEXAS LAWYER

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LITIGATOR of the WEEK

No-Show No Problem

Before a jury returned an \$8.4 million verdict last month — \$1.7 million of which he expects his client to collect — John Langdoc was concerned.

Langdoc — who represents the widow of a worker who died from injuries caused by asbestos exposure — says she refused to leave her small Georgia farm for the trial in Dallas' 68th District Court.

"We sent lawyers twice to ask her to come. We told her this could be a tough thing, trying the case if she didn't want to show up," recalls Langdoc, a shareholder in Dallas' Baron & Budd who is the lead trial lawyer in *Gensler v. Asbestos Cos., et al.*

But the widow insisted she could not leave her animals, so Langdoc says he decided "to be exceedingly honest with the jury" and explain why his client was not in court. "We didn't overreach. We told the exact truth," he says.

In her July 10, 2010, original petition, plaintiff Martha Gensler alleged, among other things, that Hercules Inc. put into the stream of commerce products it knew or should have known would cause damage to her husband, John. She brought claims for general negligence, product liability and gross negligence.

In its Aug. 12, 2010, answer, Hercules denied the allegations and asserted, among other things, that the plaintiff did not use any of Hercules' products at



John Langdoc

any time. Hercules was the only defendant that did not settle before the verdict.

John Gensler died before the trial began on Dec. 5.

On Dec. 19, Hercules filed a motion to strike the testimony of one of the plaintiff's experts and for a mistrial based on the testimony of two of the plaintiff's experts. The trial judge denied that motion.

After deliberating for almost three days, on Dec. 29 the jury found for the plaintiff on the general negligence and product liability claims and returned an \$8.4 million verdict against all of the defendants originally named in the suit. Since jurors assigned 20 percent of the responsibility to Hercules for John Gensler's asbestos-related injuries, the damages against the company total \$1.7 million.

Following the court's instructions to decide the gross-negligence claim only if their decision was unanimous, jurors did not answer that question.

Todd Suddleson, a partner in DeHay & Elliston in Dallas who represents Hercules, says his client will appeal the verdict. Suddleson also says the company does not believe its product was the cause of Gensler's asbestos-related illness.

Langdoc, who became a shareholder in Baron & Budd four years after graduating from the University of Houston Law Center, says after he stopped worrying about his client's absence from the courtroom, he felt confident about his chances. "This was a compelling case," he says.

— MIRIAM ROZEN