

For docket see [200136408](#)

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District Court of Texas, 269th Judicial District, Harris County  
DOLORES TIPP, INDIVIDUALLY AND AS PERSONAL REPRESENTATIVE OF THE ESTATE OF  
WILLIAM C. TIPP, DORA COOK, ROBERT W. TIPP, DEBRA WIEMKEN, WILLIAM E. TIPP,  
PHIL TIPP AND JOHN TIPP V. DOW CHEMICAL COMPANY  
No. 2001-36408

DATE OF VERDICT/SETTLEMENT: May 30, 2003

TOPIC: TOXIC TORTS - ASBESTOS FAMILY ALLEGED MESOTHELIOMA CAUSED DEATH

SUMMARY:

AWARD: \$9,636,825

RESULT: Verdict-Plaintiff

The jury returned a verdict for the plaintiffs awarding them \$9,636,825.10. There was no finding of gross negligence or award of punitive damages.

Prejudgment interest was estimated at \$1.8 million.

Dolores Tipp received \$3 million and each child received \$1 million. The estate received \$636,825.10 for medical and funeral expenses.

EXPERT WITNESSES:

Plaintiff: [David S. Egilman](#), M.D.; Occupational Medicine; Attleboro, MA [Gary K. Friedman](#), M.D.; Pulmonology; Houston, TX [Samuel P. Hammar](#), M.D.; Pathology; Breerton, WA

Defendant: [Leroy J. Balzer](#), M.D.; Industrial Medicine; Walnut Creek, CA [Luan Troung](#), M.D.; Pathology; Houston, TX [Michael J. Warhol](#), M.D.; Pathology; Philadelphia, PA

ATTORNEYS:

Plaintiff: [Steve Kherkher](#); Williams Bailey Law Firm; Houston, TX [Camp Bailey](#); Williams Bailey Law Firm [Michael Patronella](#); Williams Bailey Law Firm; Houston, TX Justin Shrader; Shrader and Williamson; Houston, TX [Cameron Waddell](#); LeBlanc and Waddell; Baton Rouge, LA [Brian Blackwell](#); LeBlanc and Waddell; Baton Rouge, LA [Laurance Tien](#); Williams Bailey Law Firm; Houston, TX

Defendant: [Sandra F. Clark](#); Mehaffy and Weber; Beaumont, TX [Lou Scofield](#); Mehaffy and Weber; Beaumont, TX [Art Almquist](#); Mehaffy Weber; Houston, TX Rick Simses; Abbott, Simses and Kuchler; Houston, TX Sarah Iams; Abbott, Simses and Kuchler; Houston, TX Bruce Evanick; Abbot, Simses and Kuchler; Houston, TX [Michele Allen-Hart](#); Abbott, Simses and Kuchler; New Orleans, TX

JUDGE: [John T. Wooldridge](#)

RANGE AMOUNT: \$5,000,000-999,999,999  
STATE: Texas

COUNTY: Harris County

INJURIES: The plaintiffs sought pecuniary loss, loss of companionship and mental anguish plus punitive damages for the wrongful death of William C. Tipp.

FACTS:

The plaintiffs' decedent, William C. Tipp, Jr., 67, died in Sept. 1999 from a lung ailment, the cause of which was disputed. Tipp had worked for a maintenance contractor of Dow Chemical Company in its Freeport facility as a machinist from 1971 until his retirement in 1997.

Tipp's family sued Dow for wrongful death, alleging that Tipp was exposed to asbestos while working at the facility. They alleged that he died from [Mesothelioma](#), an ailment which can only be contracted from asbestos and which is always fatal within a relatively short period of time.

The plaintiffs' chief expert, Samuel P. Hammar, M.D., a member of the U.S.-Canadian Mesothelioma Board, testified that he concluded that Tipp had the disease based upon the nature of the staining of the pathology tissue.

The Dow Chemical Company alleged that Tipp died not of [mesothelioma](#) but of [sarcoma](#), which is not an asbestos-related disease. Dow also alleged that it was not negligent and had a good record for safety and a progressive asbestos program. Dow stated that it required its contractors to observe the same safety rules generally and regarding asbestos handling specifically. Luan Troung, M.D., a pathologist from The Methodist Hospital, and Michael Warhol, M.D., from the University of Pennsylvania, diagnosed Tipp with [sarcoma](#).

Tipp's family also sued a large number of other defendants, and received modest settlements from about a third of them. Their attorney said he considered Tipp's actual employer, McGill Maintenance Company, to have been an innocent party in the matter.

ALM Properties, Inc.

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