

**STATE OF LOUISIANA**  
**COURT OF APPEAL, FIRST CIRCUIT**

LAWRENCE DAVID PHILLIPS, JR.

NO. 2021 CW 1444

VERSUS

EXXON CHEMICAL LOUISIANA,  
LLC, ET AL

**MARCH 17, 2022**

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In Re: Exxon Mobil Corporation, applying for supervisory writs, 19th Judicial District Court, Parish of East Baton Rouge, No. 691,676.

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**BEFORE: GUIDRY, WELCH, HOLDRIDGE, CHUTZ, AND LANIER, JJ.**

**WRIT GRANTED.** A party may not assign as error the giving of a jury instruction unless he objects thereto either before the jury retired to consider its verdict or immediately after the jury retires, stating specifically the matter to which he objects and the grounds of his objection. La. Code Civ. P. art. 1793(C). A district court's reliance on improper jury instructions in support of a grant of a new trial is "erroneous as a matter of law" where the party in whose favor the new trial was granted failed to object to the charge at trial. See Davis v. Witt, 2002-3102 (La. 7/2/03), 851 So.2d 1119, 1132, citing La. Code Civ. P. art. 1793(C); see also Boylston v. Tidwell, 36,730 (La. App. 2d Cir. 8/22/03), 852 So.2d 1256. The plaintiffs in this case also failed to demonstrate that the jury instructions misled the jury to the extent that it was prevented from dispensing justice. See Adams v. Rhodia, Inc., 2007-2110 (La. 5/21/08), 983 So.2d 798, 804 ("Determining whether an erroneous jury instruction has been given requires a comparison of the degree of error with the jury instructions as a whole and the circumstances of the case."). Therefore, we grant this writ application, reverse the district court's July 12, 2021 judgment granting the plaintiffs' motion for new trial, and deny same.

JMG  
GH  
WIL

**Welch and Chutz, JJ.**, dissent and would deny the writ application.

COURT OF APPEAL, FIRST CIRCUIT



DEPUTY CLERK OF COURT  
FOR THE COURT

STATE OF LOUISIANA  
19th JUDICIAL DISTRICT COURT  
PARISH OF EAST BATON ROUGE

LAWRENCE DAVID PHILLIPS, JR.	*	DOCKET NO. 691676
	*	
VS.	*	SECTION 22
	*	
EXXON CHEMICAL LOUISIANA, LLC,	*	
ET AL	*	

**JURY VERDICT FORM**

As you answer the individual interrogatories, you must consider them carefully and exercise great caution and care in arriving at answers. If you do not understand the interrogatories, you should send a message to the court.

Your verdict should be limited to alleged exposure prior to September 1, 1975.

1. Did Lawrence Phillips prove, by a preponderance of the evidence, that his mesothelioma was caused by exposure to asbestos?

YES        NO       

*If your answer is "Yes," proceed to the next question. If your answer to question number 1 is "No," please proceed to the end of the document, sign, and date this form, and return to the courtroom.*

2. Did Lawrence Phillips prove, by a preponderance of the evidence, that asbestos containing products in the care, custody, or control of Exxon were a defect that presented an unreasonable risk of harm and were a substantial contributing factor in causing him to develop mesothelioma?

YES        NO       

*Please proceed to the next question.*

3. Do you find, by a preponderance of the evidence, Exxon was negligent for Lawrence Phillips' exposure to asbestos and that it was a substantial contributing cause of Lawrence Phillips' mesothelioma?

YES        NO       

*Please proceed to the next question.*

4. Do you find, by a preponderance of the evidence, that third parties are at fault as described in the Court's jury instructions and that the fault of these third parties was a substantial contributing factor in causing Lawrence Phillips' mesothelioma?

Anco Insulations, Inc.

YES \_\_\_\_\_ NO ✓

Jacobs Engineering

YES \_\_\_\_\_ NO ✓

The McCarty Corporation

YES \_\_\_\_\_ NO ✓

Turner Industries Group

YES \_\_\_\_\_ NO ✓

*Please proceed to the next question.*

5. Do you find, by a preponderance of the evidence, that Lawrence Phillips was negligent and that Lawrence Phillips' negligent acts were a substantial contributing factor in causing his mesothelioma?

YES \_\_\_\_\_ NO ✓

*If you have answered "YES" to question two or question three, please proceed to the next question. If you have answered "NO" to both questions two and three, please proceed to the end of the document, sign, and date this form, and return to the courtroom.*

6. Please express, in dollars, the total monetary compensation that will fairly compensate the Plaintiff, Lawrence Phillips, for the damages, if any, he sustained.

Past Physical Pain and Suffering \$ \_\_\_\_\_

Mental Anguish \$ \_\_\_\_\_

Loss of Enjoyment of Life \$ \_\_\_\_\_

PLEASE SIGN AND DATE THIS JURY VERDICT FORM AND RETURN IT TO THE COURT.

Daniel Ewing  
FOREPERSON (PRINT)

4/21/2021  
DATE

[Signature]  
FOREPERSON (SIGNATURE)