

Jury finds breach of fiduciary duty in shareholder case

\$16 million verdict

A Superior Court jury rendered a \$16 million verdict against five defendants in connection with shareholder litigation filed by trustees of the Eugenie Bender Trust, a family trust that held shares in Lau Technologies Corp.

Lau, a former Massachusetts defense contractor, sold most of its assets in 2002 and became an investment company. Its chairperson and CEO, defendant no. 1, and the COO, defendant no. 2, were found liable for more than \$14 million in damages for breaches of fiduciary duty to Lau Technologies itself.

Lau Technologies was found liable for over \$1.8 million in damages to the Bender Trust for underpaying the trust in connection with four stock redemptions in 2009, 2011, 2012 and 2016.

Defendants 1 and 2 specifically were found liable for breaching fiduciary duties to Lau in connection with two personal consulting contracts worth a total of \$2.5 million, which defendants 1 and 2 signed onto with a related company called Viisage, then publicly traded on the NYSE, in 2002.

The jury found that the contracts were properly assets of Lau that defendants 1 and 2 misappropriated for themselves. The jury further found defendants 1 and 2 liable for various breaches of fiduciary duty in connection with Lau's investments from March 5, 2012, to the present.

The jury found, among other things, that defendants 1 and 2 and the company's board failed to retain necessary expertise to make investment decisions; made imprudent investment decisions; and failed to disclose shareholder information to the shareholders, resulting in \$11.5 million in damages to the company.

The jury also found breaches of fiduciary duty against two Lau board members. Both were found to have breached their fiduciary duty to the company in their capacity as directors in connection with the \$2.5 million consulting contracts, as well as breaching fiduciary duties to Lau by permitting the company to pay excessive compensation to defendants 1 and 2.

Action: Contract

Injuries alleged: Breach of fiduciary duty, misappropriation of assets

Case name: Lau Massachusetts Business Trust, et al. (plaintiffs and counterclaim defendants) v. James C. Bender, et al. (defendants and counterclaim plaintiffs)

Court/case no.: Middlesex Superior Court/No. 1581CV01074A

Jury and/or judge: Jury/Judge Christopher Barry-Smith

Amount: \$16 million

Date: Dec. 5, 2019

Attorneys: Raymond P. Ausrotas and Edward F. Foye, of Arrowood LLP, Boston (for the counterclaim plaintiffs)

Largest Verdicts & Settlements of 2019

TOP 10 Million-plus verdicts

\$35.5 million*

Lipton, et al. v. Knight, et al.

Driver of car and school bus company found negligent in head-on crash

Action: Motor vehicle negligence

Attorneys: Robert S. Sinsheimer and Lisa A. Parlagreco, of Sinsheimer & Associates, Boston; Jeffrey S. Beeler of Heinlein Beeler, Framingham; Benjamin D. Stevenson of Stevenson McKenna, Boston

*Parties settled for undisclosed amount just before jury returned verdict

\$33.28 million*

Graham v. Goldman, et al.

Jury finds cardiologist failed to obtain patient's informed consent for procedures by not advising him of alternative courses of treatment

Action: Medical malpractice

Attorneys: Andrew D. Nebenzahl, Aimee Goulding and Carly LaCrosse, of Nebenzahl Law Group, Sharon

*Verdict was subject to confidential high-low agreement

\$30.55 million*

Boulter v. Cross Country Staffing, Inc.

Staffing agency found negligent, through nurse employee, when child's brain injury at birth results in quadriplegic cerebral palsy

Action: Medical malpractice

Attorneys: Benjamin R. Zimmermann and David P. McCormack, of Sugarman & Sugarman, Boston

*Verdict was subject to confidential high-low agreement

\$27.13 million

Schand, et al. v. City of Springfield, et al.

Jury awards damages to man wrongfully imprisoned 27 years

Action: Civil rights

Attorney: Heather K. McDevitt of White & Case, New York City

\$21 million

Laramie v. Philip Morris USA Inc., et al.

Jury finds cigarette-maker liable in lung cancer death of near-lifelong smoker

Action: Negligence and tort

Attorney: Walter Kelley of Bernheim, Dolinsky, Kelley, Plymouth

\$17.5 million

Coyne v. R.J. Reynolds Tobacco Co., et al.

Smoker dies at 58; family prevails in suit against tobacco company

Action: Negligence and tort

Attorneys: Randy Rosenblum of Dolan, Dobrinsky, Rosenblum, Miami; Cassandra Costellano-Lombard and Gary Paige, of Gordon & Partners, Davie, Florida; Meredith Lever of Public Health Advocacy Institute, Boston

\$16 million

Lau Massachusetts Business Trust, et al. (plaintiffs and counterclaim defendants) v. James C. Bender, et al. (defendants and counterclaim plaintiffs)

Middlesex jury finds breach of fiduciary duty in shareholder case

Action: Contract

Attorneys: Raymond P. Ausrotas and Edward F. Foye, of Arrowood LLP, Boston (for counterclaim plaintiffs)

\$11.5 million

Coelho v. Denison, et al.

X-ray report fails to note enlarged heart in 18-month-old

Action: Medical malpractice

Attorneys: William J. Thompson and Lynn I. Hu, of Lubin & Meyer, Boston

\$10.16 million

Nemirovsky v. DACA Delaware Dissolution Trust (as successor in interest to Daikin AC (Americas) Inc.), et al.

Homeowner sues after newly installed HVAC system fails

Action: Fraud

Attorneys: Jay S. Gregory, Tara E. Lynch and Stephen Orlando, of Gordon, Rees, Scully, Mansukhani, Boston

\$9.4 million

Aguirre, et al. v. Gordon, et al.

Patient develops infection after abdominal surgery; sponge found

Action: Medical malpractice

Attorneys: Nicholas D. Cappiello and John D. Carucci, of Lubin & Meyer