
WilmerHale Achieves Victory in Montana Asbestos Case

2009-06-18

WilmerHale recently achieved a significant win for client O. Mario Favorito in the criminal environmental case brought against W.R. Grace and several former members of its management. On June 15, 2009, the United States Department of Justice moved to dismiss with prejudice its indictment against Mr. Favorito for conspiring to defraud the United States government and endanger the citizens of Libby, Montana.

In February 2005, the United States Department of Justice indicted W.R. Grace and seven of its former executives, including Mr. Favorito, former General Counsel of the Construction Products Division, a subsidiary of W.R. Grace based in Cambridge, Massachusetts. From 1963-1990, the Construction Products Division manufactured and sold vermiculite, a substance used in various products including insulation and fertilizers, from a mine in Libby, Montana. The vermiculite was naturally contaminated with tremolite asbestos. Although the Company took steps to substantially reduce exposures to vermiculite and mitigate the dangers caused by asbestos exposure, the United States Department of Justice alleged that the Company and its executives intentionally withheld critical information about asbestos from the government and conspired to “knowingly release” the asbestos, exposing Libby’s residents to this contamination.

WilmerHale successfully filed a motion to sever Mr. Favorito's trial from that of his co-defendants because of his role as a lawyer and his right to use privileged communications with his client, the Company, in his defense. In the spring of 2009, the W.R. Grace and the remaining defendants, battling the same charges as Mr. Favorito, were acquitted of all charges. Following this development, the Department of Justice dismissed the indictment against Mr. Favorito.

The WilmerHale team was led by Partners [Stephen Jonas](#) and [Howard Shapiro](#) and included Miranda Hooker, [Brent Bickley](#), Robert Mays, Paige Ammons, Matthew Bryson, and Miriam Gordon.