LAOSD Asbestos Cases (Chapman v. Avon Products, Inc.)

118 Cal.App.5th 1041 (Cal. Ct. App. 2d Dist. 2026)

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FACTS

Rita-Ann Chapman began using Avon talcum powder products in 1954 at age eight, using them multiple times per week until 1978, then resuming use from 1995 until 2010. She was subsequently diagnosed with mesothelioma. Her husband Gary Chapman brought a products liability action against Avon alleging strict liability, negligence, fraudulent misrepresentation, and fraudulent concealment based on her decades of exposure to Avon talc products as well as secondary exposure through her husband's work on automotive brakes. Following a lengthy jury trial in Los Angeles County Superior Court, the jury found Avon liable for all claims, apportioned 90% fault to Avon, and awarded $40.8 million in compensatory damages and $10.3 million in punitive damages. Mrs. Chapman passed away during the pendency of the appeal, and her husband proceeded as successor-in-interest. Avon appealed on four grounds.

ISSUES

Whether the trial court abused its discretion by admitting Dr. Longo's expert testimony regarding chrysotile asbestos testing without applying the *Kelly/Frye* general acceptance standard; whether the trial court erred in excluding Avon's corporate representative witness Lisa Gallo for lack of personal knowledge; whether Dr. Haber was qualified to opine on asbestos testing methods and Avon's internal corporate documents; and whether sufficient evidence supported the jury's verdict.

DISSCUSSION

The Court of Appeal held that Avon waived its *Kelly/Frye* challenge entirely, and that the trial court did not abuse its discretion in admitting Dr. Longo's testimony under the *Sargon* reliability standard.

Under *People v. Kelly* (1976), novel scientific techniques must achieve general acceptance in the relevant scientific community before being admitted into evidence. The waiver issue arose directly from exchanges at the hearing on Avon's motion to exclude Dr. Longo. The trial court pointedly asked Avon's counsel whether the challenge was "a *Kelly* challenge, a *Sargon* challenge, or both," and further pressed whether "*Kelly* [is] now subsumed within *Sargon*." Avon's counsel responded that *Kelly* was indeed "subsumed" within *Sargon*, and when the court followed up by asking whether "novelty in and of itself is not determinative," counsel again confirmed, "Correct. Correct. I think the focus of this is frankly reliability." By making these concessions on the record,

Avon abandoned any argument that Dr. Longo's methods were novel and required a strict *Kelly* general-acceptance analysis. The court was unpersuaded by Avon's later attempt to resurrect a novelty argument, noting that the trial court itself stated after trial that "Avon argued in its motion for a new trial that it made a *Kelly* challenge to Dr. Longo, which it didn't," expressly describing Avon as having changed its position.

Turning to the *Sargon* reliability analysis, the court applied the standard from *Sargon Enterprises, Inc. v. USC* (2012), under which a trial court acts as a gatekeeper to exclude expert opinion that is based on unreliable matter, unsupported reasoning, or speculation. This gatekeeping role is a "circumscribed inquiry", meaning the court must not weigh the opinion's probative value or substitute its own judgment for the expert's, but need only determine whether the opinion rests on a leap of logic or conjecture rather than sound reasoning. The goal is simply to exclude "clearly invalid and unreliable" expert opinion.

Dr. Longo's methodology had three components: sample preparation using double-density heavy liquid separation, testing via Polarized Light Microscopy (PLM), and birefringence analysis of the results. Notably, Dr. Longo's laboratory was the only lab in the country accredited for analyzing cosmetic talc products for amphibole asbestos using both PLM and TEM — a fact that could superficially appear to support a novelty argument, but which the court found spoke more to the specialized nature of the application than to the novelty of the underlying techniques. Both core methods were well-established, tracing back to the early 1970s, and Dr. Longo's key refinement was simply finding a way to concentrate fibers in a sample so they could be reliably detected, which was a direct response to a limitation the FDA's own testing guidelines had already acknowledged.

Avon made arguments that Dr. Longo used the wrong baseline mineral, that he had previously testified against PLM's suitability in earlier cases, and that his samples produced an unexpected color result were each met with reasoned explanation and ultimately went to the weight of his testimony rather than its admissibility. The court also flatly rejected Avon's suggestion that Dr. Longo strategically avoided a secondary validation method because it would not have yielded favorable results, finding that characterization wholly unsupported by the record. Ultimately, Avon presented competing expert opinions that the jury rejected and were unable to demonstrate that Dr. Longo's methods were illogical, clearly unreliable, or premised on invalid scientific theory.

OTHER HOLDINGS

The court affirmed the exclusion of Avon's corporate witness Lisa Gallo, finding that PMQ designation for deposition purposes does not create a special witness category at trial and that Avon failed to show she had personal knowledge of any relevant facts. The court affirmed admission of plaintiffs' medical expert Dr. Haber's testimony on asbestos testing methods, and found Avon's sufficiency-of-the-evidence challenge waived for failure to set forth the full record on appeal.

The Trial Court's judgement was affirmed. Avon was ordered to pay costs on appeal.