

## Two Construction Workers in Lead Paint Fumes Brain Damage Case Win Combined Verdict of \$7.3 Million After Trial Judge Vacated \$10 Million Verdict Due to Attorney Misconduct

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After a seven week jury trial in Manhattan, construction workers Ryszard Kruzynski and Krzysztof Belzek were awarded verdicts of **\$4,250,000** (Kruzynski) and **\$6,125,000** (Belzek) for their pain and suffering for brain damage they sustained as a result of their exposure to lead fumes during demolition work at New York City's Grand Central Terminal.



After trial, though, the judge granted the defendants' motion to vacate the verdict and he ordered a new trial on the ground that plaintiffs' closing argument was prejudicial and that the damages awards were excessive. He found that the closing argument was so prejudicial that the defendants didn't get a fair trial (and therefore the issue of the amount of damages wasn't addressed by the trial judge).

Yesterday, an appeals court reversed the trial judge's finding and issued its decision in [Wilson v. City of New York](#) holding that **plaintiffs' attorney's comments about the defense medical expert, while improper (he was called a hired gun, a charlatan and a con artist) did not create a climate of hostility that so obscured the issues as to have made trial unfair.**

The court then addressed the issue of damages and stated that the **jury's verdict should be modified downward as follows:**

- Kruzynski's \$4,250,00 was reduced to **\$2,925,000** (\$900,000 past - 11 years, \$2,025,000 future - 22 years)
- Belzek's \$6,125,000 was reduced to **\$4,410,000** (\$900,000 past - 11 years, \$3,510,000 future - 39 years)

**Each of the plaintiffs had similar brain damage symptoms, including memory loss, headaches, fatigue, depression, loss of concentration and a decline in general intellectual function.**

For two years, the plaintiffs were using acetylene torches to burn off steel beams and other metal objects covered with lead-based paint.

Suit was brought against the premises owner (the city's Metropolitan Transportation Authority) and the general contractor who were found liable for their industrial code violations as to the provision of respirators and air quality testing.

The workers' brain damage was caused by a vicious cycle: heating lead based paint with torches created fumes which were inhaled, the fumes got into the bloodstream and then absorbed into the bones, after which very slowly sometimes over years the lead moved out of the bones into the blood. The poisoned blood circulated throughout many areas of the brain causing extensive damage there.

#### **Inside Information:**

- The defense expert, William Head, M.D., a psychiatrist and a neurologist, earns \$1,500,000 testifying in court more than 25 times a year, almost always for defendants, and he has a 12 person non-medical litigation support staff.
- The plaintiffs were found to be partially at fault for their own injuries (Kruzynski 30% and Belzek 15%) because they continued to work without proper protective gear and their recoveries were reduced accordingly.

