

[6] *Griggs v. West-Pac Industries* — \$58 million

Third-degree burns covered 75 percent of Joseph B. Griggs' body after the construction vehicle he operated caught fire, engulfing him in flames and prompting him to leap out of the vehicle to the ground.

In the product-liability suit that followed, the defense latched on to the fact that Griggs was a cigarette smoker.

But attempts by the defense at trial to blame a cigarette for causing the blaze backfired, and a jury awarded Griggs \$58 million.

Brian J. Panish of Santa Monica's Greene, Broillet, Panish & Wheeler successfully argued that an allegedly defective mechanical part in the hydraulic system of a Caterpillar scraper, not a cigarette, caused the injuries to Griggs.

The jury returned the \$58 million verdict, the sixth-largest in the state last year, against the importer and distributor of a rubber sealer called an O-ring, which allegedly failed, sending a spray of flammable hydraulic fluid, ignited by contact with the hot engine. *Griggs v. West-Pac Industries*, BC216425 (L.A. Super. Ct., verdict March 23, 2004).

"They made a huge tactical decision to fight the cause of the fire and say it was a cigarette," says Christine Spagnoli, Panish's co-counsel and fellow Greene Broillet partner.

The accident occurred Sept. 10, 1998, as Griggs graded land for a self-storage facility in Valley Springs.



Christine Spagnoli, left, and Brian Panish of Greene, Broillet, Panish & Wheeler stand among photographs of their client's burnt-out construction vehicle, which caused third-degree burns over 75 percent of the man's body.

In opening statements, Steven J. Joffe, attorney for West-Pac, the O-ring's distributor, referred to photographs taken Sept. 19,

1998, that show cigarette remnants on the floor of the construction vehicle's cab.

After the opening remarks, Spagnoli

brought out her side's first witnesses: state fire officials who had inspected the cab the day of the fire and took photographs that showed no cigarettes.

Panish referred to the defense claim as a smokescreen.

"It never happened," Panish says. "It's ridiculous."

Joffe stands by his approach at trial.

"I never went back to the photographs [showing cigarettes in the cab]," Joffe of Los Angeles' Wilson, Elser, Moskowitz, Edelman & Dicker says. "I talked about the forensic evidence."

A fire-reconstruction expert testified that the blaze started in the cab, not in the engine area, he says.

But Joffe says the jury had a difficult time objectively looking at the evidence because of Griggs' horrific injuries.

"They just didn't seem to be able to get around that," he says.

Tom Y.K. Mei of Santa Ana, who represented the importer Tool Exchange, did not return repeated calls seeking comment.

In September, six months after the verdict, Tool Exchange settled for a confidential amount, while West-Pac paid out \$24.75 million. Before trial, Caterpillar settled for \$4.75 million. The defense blamed Griggs' employer, Moyle Excavation, for not properly installing the O-ring. Moyle settled for \$1 million before trial.

— Eron Ben-Yehuda