

Sound Science Prevails - Texas Court of Appeals Reverses Erroneous Trial Court Judgment, as urged by ALF.

In June 2002, the Texas Court of Appeals, reversing the trial court in *Missouri Pacific Railroad Company v. Navarro*, held that the decision to admit expert testimony by plaintiff's witnesses on the causation of Mrs. Navarro's multiple myeloma, including testimony of plaintiff's experts on toxicology, oncology, industrial hygiene, and epidemiology, was in error, because the testimony of plaintiff's experts was unreliable and that "one must make a huge leap from the data in the studies relied upon to arrive at the conclusion that exposure to diesel exhaust causes multiple myeloma and further, that such exposure caused [Mrs. Navarro's] multiple myeloma [and that] 'there is simply too great an analytical gap between the data and opinions proffered.'" Because the appellate court found that the expert testimony offered by plaintiff to prove exposure to diesel exhaust causes multiple myeloma to be unreliable, it held there was no evidence to support the jury verdict and it reversed the trial court's judgment and rendered judgment in favor of the railroad.

The appellate court's decision mirrored the points made in an *amicus* brief ALF had filed on behalf of two Nobel Laureates (in Chemistry and in Medicine), the Director *Emeritus* of the National Center for Toxicological Research, the former Vice President for Epidemiology and Surveillance Research of the American Cancer Society, and 10 other prominent scientists in support of Missouri Pacific. The Foundation's brief argued that no reputable scientist had concluded or even asserted in any published article, monograph, study or textbook that diesel exhaust causes multiple myeloma, that the methodology used by the plaintiff's experts was not scientifically sound, that their opinions on general causation were not supported by scientific research, and that their opinions on specific causation were not supported by any scientifically sound data, theory, or methodology. We further argued that plaintiff did not satisfy his burden of meeting the general admissibility standard set forth in *E.I. du Pont de Nemours & Co. v. Robinson*, 923 S.W.2d 549 (Tex. 1995) or the specific admissibility criteria set forth in *Merrell Dow Pharm., Inc. v. Havner*, 953 S.W.2d 706 (Tex. 1997), and that because plaintiff had adduced no admissible causation evidence, the judgment should be reversed.