



Toxic trial: The aftermath

Plaintiffs are ready to press on

By DAN KENNEDY

WOBURN -- The television cameras had been packed up and the throng of reporters with their shouted questions was slowly trickling out of Trinity Episcopal Church.

Now Kevin Kane Jr. was standing with his father, Kevin Sr., and his mother, Patricia, waiting to go home.

Fifteen-year-old Kevin would like to think of himself as a typical teenager. He'll be entering the 10th grade at Woburn High School this fall, and he says he enjoys school.

But Kevin is also a central figure in a federal trial that could transform the relationship between communities and industrial polluters. He is one of 27 present and former East Woburn residents who are suing W.R. Grace & Co.

On Monday, Kevin and the other plaintiffs won their first victory, when a U.S. District Court jury found that negligent chemical dumping at Grace's Cryovac manufacturing plant, 369 Washington St., led to the contamination of municipal wells G and H with trichloroethylene (TCE) and tetrachloroethylene (PCE).

A second, and potentially more difficult, step lies ahead. Starting Sept. 15, the same jury will hear evidence that the con-



KEVIN KANE JR. AND SR. meet the press at Monday afternoon press conference at Trinity Episcopal Church in Woburn. Kevin Jr., who has recovered from leukemia,

taminants dumped by Grace led to the leukemia deaths of five children and one adult and the illnesses of two others.

Kevin Kane Jr. is one of those victims of leukemia. Diagnosed in 1973 at the age of 2, his disease is now in remission. His family

considers him cured.

Some time this fall, Kevin will take the witness stand and describe what happened to him. It is sure to be a difficult, emotional ordeal — but one for which he says he's prepared.

"After what they did to me, I

told reporters, "I feel that one company got away when they shouldn't have."

(Bob Cournoyer photo)

can do it," he calmly tells a reporter.

His father gently adds, "After Dr. Truman's needles, you can take anything."

Dr. John Truman is Kevin's doctor at Massachusetts Gener-

al Hospital and is an expert in childhood leukemia.

The Kane family and six other plaintiffs spoke to reporters Monday afternoon at Trinity

● Families

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Church.

They said they were pleased with the verdict against Grace, but were disappointed that the jury dismissed their complaint against Beatrice Foods Co.

The plaintiffs had alleged that a piece of land adjacent to the Riley Leather Co. tannery, 228 Salem St., had been used as a chemical dumping ground, and that those chemicals had flowed into G and H.

Beatrice owned the tannery and the adjacent property from 1978 to 1983 and retained environmental liability.

"We're happy and at the same time we're upset," said Diane Aufiero of Winchester, a former East Woburn resident whose daughter, Jessica, contracted leukemia in 1981 at the age of 4 and is presently in remission.

"We've been put through a lot of stress, a lot of emotion, just like when we're waiting for our sick children in the hospital," Aufiero added.

Kathryn Gamache's husband, Roland, died of complications following a bone-marrow

transplant on April 13 of this year—one month after the trial started.

He had been diagnosed with leukemia in 1980, and is the only adult victim cited in the lawsuit.

She said the trial has conjured up "some very unpleasant memories" and added, "I would hope corporate America has learned not to put their dumping ground right next to a public water supply."

Donna Robbins, whose son, Carl (known as "Robbie"), died of leukemia in 1981 at the age of 9, added, "We've come a long way and I think it shows that people don't have to sit back and drink contaminated water."

One plaintiff who did not attend Monday's press conference was Anne Anderson, the East Woburn resident who has been involved with investigating her neighborhood's unusually high leukemia rate for more than 15 years.

Anderson's son, James, was diagnosed in 1972 at the age of 3—the first of the eight leukemia cases cited in the lawsuit. For years she pressed for an investigation of the city's water supply.

Her fears were realized in May 1979 when wells G and H, which supplied most of the

water to her neighborhood, were discovered contaminated and shut down after 15 years of use.

The lawsuit is known formally as *Anderson v. W.R. Grace*.

In an interview Monday afternoon, Anderson said she, like the other plaintiffs, was "disappointed that (the jurors) didn't find Beatrice guilty."

Still, she believes the trial made Beatrice "sit up and take notice," and said, "They spent a lot of time and a lot of money and a lot of energy defending themselves," adding she hopes the company will change its corporate practices.

Anderson was unsure of the potential impact of some of the more subtle aspects of the jury's decision.

The jurors reported they could not determine when TCE and PCE dumped at the Grace property first "substantially contributed" to the contamination of the wells.

But at the same time, they reported that "substantial contamination" from TCE resulting from negligent actions by Grace began in September 1973. They were unable to reach a conclusion about PCE, but during the trial, expert witnesses for all parties agreed that PCE travels through groundwater three



PLAINTIFFS' ATTORNEYS confer at press conference Monday afternoon in Trinity Episcopal Church in Woburn. From left are Kevin Conway, Thomas Kiley and Jan Schlichtmann. (Bob Cournoyer photo)

times more slowly than TCE.

Three of the leukemia cases—including Jimmy Anderson's—were diagnosed before September 1973. Plaintiffs' chief counsel Jan Richard Schlichtmann said Monday that those plaintiffs' claims would be preserved because state law allows a party to sue for actions that worsen or complicate a disease or hasten death.

Anderson said she believes the jury became "mired down" by the complex scientific details of the five-month-long trial, and that the members would have had an easier time if they had been familiar with Grace's history in Woburn.

"I think they probably didn't

have a good, clear sense of the simplicity of it," she said.

Anderson said she had not been particularly tense during jury deliberations until last Thursday afternoon, when the jurors reported they were deadlocked. At that point, she admitted, "I guess the anxiety level reached a little higher than it had."

None of the plaintiffs has been able to attend trial sessions, because Judge Walter Jay Skinner has barred witnesses from the courtroom.

But, like most of the other plaintiffs, Anderson has been reading transcripts provided to her by Schlichtmann's office.

And it hasn't escaped her notice that lawyers tend to treat witnesses roughly during cross examination.

"They haven't been easy attorneys," she said. "I guess I'll just have to wait and see what they do and do the best I can. You can't do any more than that."

Unlike Schlichtmann, who expressed "bitter disappointment" at the verdict Monday, Anderson took an optimistic view.

"Just by filing suit we have put these companies and corporate America on notice," she said. "No matter how you look at it, it's a victory."



KATHRYN GAMACHE, left, whose husband, Roland, died of leukemia during the first month of the trial, tells reporters, "I would hope corporate America has learned not to put their dumping ground right next to a public water supply." At right is Diane Aufiero, whose daughter, Jessica, suffers from leukemia. (Bob Cournoyer photo)

(Bob Cournoyer photo)