

DAYCO PREVAILS IN FEDERAL COURT

Philadelphia, Pennsylvania, 2001

Jury Finds against Total Containment in Lawsuit Alleging Breach of Warranty

A jury sitting in Federal Court in Philadelphia found in favor of Dayco Products in a lawsuit brought against it by Total Containment Incorporated. TCI had claimed that hose manufactured by Dayco for the purpose of carrying gasoline from underground storage tanks to aboveground pumps was defective. Dayco asserted that the hose was not defective and that TCI owed it millions of dollars for hose which TCI had failed to pay for. In the end, the Court dismissed TCI's warranty claim and Dayco was awarded \$2.4 million based on its counterclaim.

Dayco is a leading manufacturer of fluid transfer hoses, fluid power hose and coupling, power transmission systems and related components. TCI is the developer and supplier of underground containment systems that store and deliver gasoline to aboveground pumps at service stations around the world. TCI provided Dayco with the specifications for the hose, and Dayco was responsible for manufacturing the hose according to those specifications. At trial, TCI argued that the hose it received from Dayco was not suitable for underground usage as part of TCI's gasoline containment system. TCI further claimed that because of this defect, the threat to the environment in and around scores of gas stations from leaking gasoline lines was enormous. TCI sought the costs of replacing all the hose in each of its systems at a cost of hundreds of millions of dollars.

Dayco's evidence established that the polyester hose it provided was well-suited for the specifications given to it by TCI, given TCI's representations that it would be used in a completely water tight system. The problems with the hose resulted from failures in TCI's system which proved not to be water tight. Dayco witnesses testified that the water leaking into TCI's system produced pools of standing water, creating the conditions that caused the deterioration of the hose. TCI's own documents revealed that it knew its system was leaking but failed to disclose this problem to Dayco. Instead, TCI continued to request hose suitable for a water tight system. This evidence supported Dayco's position that it was the containment system, not the hose that failed, and that TCI knew of this problem years before it filed the lawsuit.

The Court dismissed TCI's warranty claim and the jury found for Dayco on its counterclaim. The jury determined that while Dayco breached certain pricing provisions of this agreement, TCI had also breached its obligation to pay Dayco. As a result, Dayco was awarded approximately \$2.4 million.

Litigation Strategies, Ltd. provided jury research and strategic consultation to the Dayco trial team led by Edward V. Filardi of Skadden, Arps, Slate, Meagher and Flom.

- Strategic Research
- Witness Preparation
- Demonstrative Exhibits



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