

# OPINION SUMMARY

## MISSOURI COURT OF APPEALS EASTERN DISTRICT

JESSIE GRAY,	)	No. ED103157
	)	
Appellant,	)	Appeal from the Circuit Court
	)	of Pike County
vs.	)	13PI-C00036
	)	
3M COMPANY,	)	Honorable Rachel Bringer-Shepherd
	)	
Respondent.	)	Filed: June 21, 2016

Jessie Gray filed a products liability lawsuit against 3M Company alleging that the 3M 8710 respirators he wore while employed by National Compression Services as a concrete sandblasting and demolition supervisor were defective and resulted in Gray suffering from the lung disease silicosis. The case was tried by a jury and a verdict was entered in favor of 3M. Gray appeals, alleging two points: 1) the trial court erred in admitting testimony of 3M's retained expert, Alan Johnston, because 3M failed to timely disclose Johnston's opinions about certain research studies which formed the foundation for portions of his opinion testimony; and 2) the trial court erred in denying Gray's motion for new trial because the admission of Johnston's testimony resulted in prejudice.

AFFIRMED.

DIVISION THREE HOLDS: The trial court offered Gray the opportunity to re-depose Johnston and offered multiple continuances, but Gray rejected these offers each time and indicated to the trial court that Gray was ready for trial. Based on these circumstances, we cannot find that the trial court abused its discretion in denying Gray's motion to exclude Johnston's testimony and his motion for new trial

Opinion by: James M. Dowd, J.

Robert M. Clayton III, P.J., Lawrence E. Mooney, J. concur

Attorney for Appellant: Zane T. Cagle

Attorneys for Respondent: Stephen J. Torline, Kathryn A. Lewis, James H. Ryan, and Michael T. Crabb

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