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For Immediate Release

August 1, 2012

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Attorneys Who Won Unprecedented Verdict against Negligent Lead Producer Named 2012 ‘Trial Lawyers of the Year’ at Gala in Chicago

Four attorneys who won the largest jury verdict ever in Missouri by holding a major lead smelting operator accountable for poisoning children around its Herculaneum, Mo., plant has won the Public Justice Foundation’s 2012 Trial Lawyer of the Year Award, one of the most prestigious legal honors in the country.

Gerson H. Smoger of Oakland, Calif.; Mark Bronson and James Dowd, both of St. Louis, Mo.; and Steven Bronson of Dallas were named winners July 31 at the Public Justice Foundation’s 30th Anniversary Gala in Chicago, besting a field of four finalists.

After 16 years of litigation, culminating in a three-month trial, the legal team won a jury award totaling \$358.5 million – \$320 million of it in punitive damages. Doe Run’s long-time, round-the-clock lead smelting operation in east central Missouri leeched lead into the local air and soil, leaving children to face the serious consequences of exposure, including stunted growth, kidney failure, and neurological disorders.

Even though Doe Run and the smelter’s previous owners knew what was happening, they did nothing to stop it; in fact, production increased.

The winning team’s case, *Alexander v. Fluor*, involved 16 separate personal injury cases. The result was the largest jury verdict ever in Missouri.

The other three finalists for the award were also honored at the gala, which drew hundreds of public interest advocates and attorneys from around the country.

- In a decade-long battle that involved two separate trials, nine attorneys forced the Tennessee Valley Authority, the country’s largest utility, to retrofit its large fleet of coal-fired generating plans with pollution controls, reduce emissions of nitrogen oxide and sulfur dioxide by nearly 70 percent; pay \$10 million in civil penalties; and spend \$350 million on environmental mitigation projects. The team in *National Parks Conservation Association v. Tennessee Valley Authority* included lead counsel

George E. Hays of San Francisco; William “Chip” Moore of Jacksonville, Fla.; Reed Zars of Laramie, Wyo.; and co-counsel Wade Davies of Knoxville, Tenn.; Michael A. Costa of San Francisco; Bruce E. Niles and Pat Gallagher of the Sierra Club; Elizabeth Fayad of the National Parks Conservation Association; and Sean H. Donahue of Washington, D.C.

- A team of 25 attorneys from around the U.S. sued dozens of the country’s largest banks over a common, but predatory, accounting scheme that forced millions of consumers nationwide to pay unfair overdraft fees. The team settled with Bank of America for \$410 million, and reached tentative settlements with Morgan Chase Bank for \$110 million and Union Bank for \$35 million – recoveries that will provide refunds to consumers who were unfairly charged under the banks’ practice of stacking debits so that the largest amounts were paid first, leaving smaller debits to trigger individual overdraft charges. Settlements with other banks are pending. The team in the *In Re: Checking Account Overdraft Litigation* included Bruce S. Rogow and Aaron S. Podhurst, Robert C. Josefsberg, John Gravante III, Peter Prieto, and Jeremy W. Alters, all of Miami, Fla.; Robert C. Gilbert, Stuart Z. Grossman, David M. Buckner and Seth E. Miles of Coral Gables, Fla.; Russell W. Budd, Bruce W. Steckler and Mazin A. Sbaiti of Dallas, Tex.; Michael W. Sobol, David S. Stellings, Roger N. Heller and Jordan S. Elias, both of San Francisco; Ted E. Trief and Barbara E. Olk, both of New York City; Edward Adam Webb, Mathew C. Klase and G. Franklin Lemond, Jr., all of Atlanta; and Richard Golomb, Ruben Honik and Kenneth J. Grunfeld, all of Philadelphia.
- After a seven-year battle that brought them to the brink of trial on three occasions, a five-man team of plaintiffs’ attorneys prevailed in holding Massey Energy and its then-chief executive officer accountable for poisoning well water in Mingo County, W. Va., with more than 1.4 billion gallons of highly toxic coal slurry. The mining operator injected the contaminated substance into underground aquifers around its abandoned mines, leading to contamination of water used by hundreds of people. A settlement on behalf of 585 Mingo County residents put an end to all of Massey’s coal slurry injections in the affected communities, provides two years of water replacement for residents along with a confidential cash settlement, and establishes a 30-year medical monitoring program and epidemiology study. Attorneys in *Mingo County Coal Slurry Litigation* were Kevin W. Thompson and David R. Barney, Jr., both of Charleston, W.Va.; Van Bunch of Phoenix, Ariz.; Bruce Stanley of Pittsburg, Pa.; and Sean Cassidy of New Orleans, La.

The Public Justice Foundation annually presents its Trial Lawyer of the Year Award to an attorney or team of attorneys who demonstrated exceptional effort in trying or settling a socially significant – and, often, precedent-setting – case in the past year.

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