

## Hans Vidmar v. the Kerr Corporation

The Kerr Corporation, a small owner-run and operated company, recently purchased a building and an adjacent lot in a rural area near a lake. The adjacent lot, an area approximately half the size of a football field, was covered with a considerable amount of debris. The real estate agent told the Kerr Corp. that the adjacent lot had been vacant for years and that she did not know what it had been used for. From the debris on the lot, it had apparently been used as a general dump. The real estate agent indicated that the debris most likely just contained yard clippings that people had assumed would decompose, and that there should be no problem with hiring some local help to get rid of the debris.

The Kerr Corp. hired a 43-year-old unskilled worker, Hans Vidmar, to clear the lot, to till the soil, and to plant two dozen trees and bushes. At the end of the second week on the job, Vidmar complained to the Kerr Corp. that he felt a little lightheaded and dizzy while he was clearing the debris. The Kerr Corp. told Vidmar to continue working but to notify them if he felt worse. By the third week, Vidmar began to have visible tremors and difficulty breathing. He was subsequently hospitalized with severe respiratory problems, and remained in the hospital for a month. Under doctor's orders, Vidmar was unable to work for a month after his release from the hospital. Follow-up physical examinations revealed permanent damage to the lungs, placing Vidmar at chronic risk of severe respiratory illness.

City and federal inspectors analyzed the debris on the lot owned by the Kerr Corp. and concluded that a highly toxic substance was present in significant quantities on the lot. Persons exposed to this substance often experience dizziness and respiratory problems like those experienced by Vidmar. As a result of this incident, Hans Vidmar decided to sue the Kerr Corp. in civil court to obtain compensation.

Now suppose you have been called as a juror to decide this case in a civil court. Vidmar is suing the Kerr Corp. for compensation for his medical bills, his doctor bills, and his pain and suffering. Vidmar's attorney argues that the Kerr Corp. should have foreseen that the lot might have contained toxic waste and was reckless in failing to check the lot before hiring him. The Kerr Corp. also should have checked out Vidmar's complaints before sending him back to work. Therefore, the attorney argues that the Kerr Corp. is liable for Vidmar's hospital and doctor bills totaling \$95,000, plus an additional \$150,000 for future medical expenses associated with his lung damage. Furthermore, Vidmar's attorney argues that her client should be reimbursed for lost wages totaling \$3,800 for the two months he was unable to work, and \$15,000 for future wage losses associated with the lung damage. Finally, she argues that the Kerr Corp. should also compensate her client for his pain and she is asking the Kerr Corp. to pay \$245,000 in past and future medical expenses, \$18,800 in past and future lost earnings, and \$150,000 for pain and suffering, for a total of \$413,800.

The attorney for the Kerr Corp. says his client will pay the hospital bills of the worker, which amounts to \$95,000, and the lost wages, which amounts to \$3,800, but he disputes the other claims and says that his client should not be required to pay them. Furthermore, he says that although the Kerr Corp. owns the lot, it is not responsible for the long-term ill effects of the worker. He also disputes that Vidmar's lung damage is entirely the result of exposure to the toxic waste, pointing out that Vidmar had admitted to having been a cigarette smoker when he was in his twenties, and that this might have caused some lung damage. Therefore, he argues that the Kerr Corp. should not be required to pay anything except Vidmar's hospital bills and lost wages, for a total of \$98,800.