

**Farm Negligence - A farm laborer suffered a fungal infection (blastomycosis) after an exposure to dust while cleaning a grain bin – in this lawsuit he blamed his farm employer for failing to provide him a safe place to work – the farm replied that respirators were available (the plaintiff elected not to use one) and that in any event, it was unlikely the fungal infection was related to the farm event**

*Baird v. Greenwell Brothers Farm,*  
21-140

Plaintiff: Austin P. Vowels and M. Alexander Russell, *Vowels Law,*  
Henderson

Defense: Melissa Thompson  
Richardson and Zachary T.  
Epperson, *Richardson Law Group,*  
Lexington and H. Randall Redding,  
*King Deep & Branaman,* Henderson

Verdict: Defense verdict on liability

Court: **Union**

Judge: Daniel M. Heady

Date: 12-21-23

Mitchell Baird, then age 53, made a career as a farm laborer. He started working in 2017 for Greenwell Brothers Farm in Union County. He did work as a mechanic, greasing equipment, working in the field and generally farmhand duties.

Baird was tasked on 8-17-20 with cleaning out a grain bin so that a new floor could be installed. It was quite dusty in the grain bin. When the work was done, Baird was covered in dust. There was proof he breathed in that dust.

Baird felt poorly almost immediately and he developed a fungal infection because of an exposure to blastomyces. The organism (blastomyces) is endemic to the soil in the Ohio River Valley, the Mississippi River Valley and generally the Southeastern United States.

Baird was hospitalized two weeks later with symptoms and diagnosed

with blastomycosis. His course was complex. He developed lesions on his face and sepsis. It was his proof he inhaled blastomyces spores while working in the grain bin.

Baird sued Greenwell Brothers and alleged negligence by them in failing to provide him a reasonably safe place to work. Particularly he was not supplied appropriate masks or respirators to safely do the work.

Baird's damages were substantial. He has suffered ongoing respiratory issues, severe depression because of the inability to work, chronic headaches, difficulty ambulating and a general inability to engage in activities without becoming sick.

An expert, Dr. Peter Tuteur, Pulmonary Medicine, St. Louis, MO, confirmed the injury and linked it to the grain bin exposure. If Baird prevailed he sought medicals of \$461,813 and \$704,208 more in lost wages as well as sums for pain and suffering. His wife (Debra) presented a derivative consortium claim.

Greenwell Brothers defended on several fronts. The first was that masks and respirators were available. Baird as an experienced lifelong farm hand knew whether or not to wear protection on this job, and elected not to do so. That decision was informed in part (as he testified at trial) by the excessive August heat in Western Kentucky. Greenwell Brothers relied on an industrial hygienist, James McIntosh, Huntington, WV and Bob McIndoo, Farm Operations (standard of care), Henderson.

Greenwell Brothers also contested causation in several ways. First blastomyces is endemic to the area and its impossible to say that Baird's blastomycosis was related to the grain bin exposure. An infectious disease expert, Dr. Keith Armitage, Cleveland, OH, also noted the incubation period for blastomycosis is four weeks. Baird had symptoms

within two weeks. Armitage also opined that Baird likely had blastomycosis before this work project as his medical records indicated he'd been losing weight, suffering fatigue and had sores on his body in the prior months. Moreover, of all the employees working in and around the grain bin on this project, only Baird got sick.

Finally there was proof from Baird's treating doctors that (1) he was fully recovered from the fungal infection, and (2) he had an extensive history of pre-existing health issues including depression, diabetes and COPD, all of which would explain his ongoing symptoms.

This case was tried for four days in Morganfield and the deliberations lasted 30 minutes. The court's instructions explained Greenwell Brothers Farm had a duty to prevent a foreseeable injury by furnishing a safe place to work **and** making available reasonably safe tools and appliances required for the work. The jury answered unanimously that Greenwell Brothers had not breached this duty. It thus didn't reach the plaintiff's duties, apportionment or damages. A defense judgment has since been entered.

#### **Case Documents:**

[Complaint](#)

[Defense Expert Disclosure](#)