



From the January 24, 2005 North Carolina Lawyers Weekly.

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Verdicts & Settlements

Workplace Tort

General Contractor Climbed Bracing On Fiberglass Ladder - Against Warnings - Collapsed - Sub's Employee Suffered Brain Injury - Contrib Issue - \$3.5 Million Settlement

Brief Statement of Claim: Personal injury/ loss of consortium/negligence of contractor for injuries to subcontractor employee/third party claim/traumatic brain injury/shoulder injury

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Principal Injuries (in order of severity): Moderate brain injury and rotator cuff injury resulting in total and permanent disability from gainful employment

Tried or Settled: Settled

County where Tried or Settled:
Wilkes

Mediator: Robert Beason

Case Name & Number: John Doe and Jane Doe v. Engineering Company

Date Concluded: Settlement July 9, 2004

Settlement Amount: \$3,500,000

Insurance Carriers: Employers Mutual Casualty Company

Attorneys for Plaintiff: Howard F. Twiggs and Donald R. Strickland of Twiggs of Twiggs, Beskind, Strickland & Rabenau, P.A., Raleigh

Expert Witnesses for Plaintiff: Michael Sutton, P.E.; Patrick Logue, PhD.; Cynthia Wilhelm, PhD. Finley Lee, PhD.

Other Useful Info: Plaintiff, an employee of a heating and air conditioning company, was standing on a step ladder installing duct work above a ceiling grid, when he notice one of the ceiling grids was bent. The owner of the general contractor happened to be walking past Plaintiff

at that time. When Plaintiff pointed out the bent ceiling grid to the general contractor, the general contractor suddenly began climbing up the back bracing of the step ladder planning to straighten the ceiling grid. The fiberglass step ladder, which had warning signs not to climb on the bracing, collapsed when the contractor stepped on the second brace causing Plaintiff to fall from the ladder and land on his head on a concrete floor.

Plaintiff lost consciousness at the scene but later regained consciousness by the time he arrived at the local hospital. He was then transported to Baptist Hospital, where he developed a bleed in his brain and had to undergo a craniotomy followed by several weeks of physical and cognitive rehabilitation. The first neuropsychological testing done at Baptist Hospital about 9 months after the accident, indicated that Plaintiff has made a better recovery with his memory and cognitive impairments than his treating physiatrist believed likely. Therefore, Plaintiff was retested about 18 months following the accident. The second neuropsychological testing showed that Plaintiff had memory, concentration, attention and speed of processing problems of the kind one would expect following the severity of the brain injury Plaintiff had suffered. Plaintiff also had problems with balance, dizziness and speech due to his brain injury. His treating physiatrist was of the opinion that Plaintiff, who was 57 years old when the accident happened, was permanently disabled from returning to gainful employment.

Plaintiff claimed compensatory damages against the corporate Defendant and compensatory and punitive damages against the individual Defendant who climbed up the back of the step ladder in violation of the obvious warnings on the step ladder and the Defendant corporation's written safety policies which warned that climbing up the bracing of step ladders could cause serious injury or death. Defendant claimed that Plaintiff was contributory negligent for using a step ladder that was in poor condition. Plaintiff's expert engineer, Michael Sutton, P.E., tested the ladder and opined that the ladder was fit for the purpose for which it was intended to be used.

The case settled about two months following the second mediation and about two months before the scheduled trial date.

Submitted by: Donald R. Strickland

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