

# Verdicts, Settlements & Tactics

A Practical Injury Litigation Report

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## \$4.7 Million Settlement in Suit Against Forklift Dealer

On January 19, 1995, a 31-year-old crane operator was injured when he was struck in the back by a forklift truck. Plaintiff's job at Dana Corporation required him to walk between stacks of truck parts. He claimed he was struck by the fork as the forklift truck driver deposited another load of material behind him.

Suit was brought against the forklift dealer, Modern Group, Inc. As a forklift dealer, Modern was a crucial link in the chain of distribution of the forklift. Modern was involved in every step of a \$1.8 million forklift order, handling, plant visits, specifications, installation of safety devices and delivery. In Modern's sales process, its representatives surveyed the Dana plant, and reviewed equipment that the Modern salesperson thought appropriate. After Modern performed a site inspection, it developed specifications describing the forklift and equipment needed. Modern committed itself to fit the forklift to the job, following guidelines in a sales manual. Modern's policies mandated an extensive, systematic analysis of the prospective customer's operation. Plaintiff alleged that Modern outfitted a forklift that was unsafe for its intended use.

Defendant contended that plaintiff was negligent in placing himself in a "crush point" where he was exposed to crush injuries from forklift. Defendant also contended that the forklift driver moved

forward while lifting load violating basic safety rule.

**Injury:** Lacerated superior mesenteric artery and vein and mesentery leading to profound blood loss and cardiac arrest; hypoxic encephalopathy; spastic quadriplegia & right 12<sup>th</sup> rib fracture.

Past medicals: \$675,820.25; Loss of earnings: \$285,121.61; Loss of earning capacity: \$1,325,880.00; life care plan: \$5,085,507

**Result:** \$4.7 million settlement, which included \$700,000 for wife's loss of consortium claim.

**Plaintiff Expert Witness:** Vaughn Adams, Tempe, Ariz.

**Defendant Expert Witnesses:** Dr. Clyde C. Richards, U.S. Navel Academy, Annapolis, MD

**Plaintiff's Attorney:** Peter M. Patton of Galfand, Berger, Lurie, Brigham, Jacobs, Swan, Jurewicz, Jensen Ltd., Philadelphia, Pa.

**Defendant Attorney:** Edward Griffith of Duane, Morris, et al., Wayne, PA

**Laub v. Modern Group, Inc., No. 1873 December Term 1995 (Philadelphia Cty Ct of Common Pleas, Pa. Feb. 1999)**