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JURY AWARDS INJURED MINERS \$1 MILLION

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After just a few hours of deliberation last Friday, a jury in the York County Court of Common Pleas returned a \$1 million verdict in a products liability case involving two Thomasville, Pa. miners.

Scott Rauhauer and Tom Leese, employees of the Thomasville Stone & Lime Co., said they suffered permanent damages in August 1986 when an eight-ton boulder broke off the rock face and fell onto the lift from which they were working.

Rauhauer and Leese worked as "scalers," a job that entails scraping loose stone from the walls of underground limestone mines. The aerial lift they employ, a "giraffe," consists of a truck equipped with two arms connected in an elbow shape, called a scissor boom. The lower arm works to raise and lower the upper arm, which basically tests parallel to the rock face. A basket from which the scalers work sits at the end of this upper arm.

Peter M. Patton, a senior partner at Galfrand Berger, represented the men in their case against Figgie International, Inc., manufacturers of the lift, Pitman Manufacturing Co., the lift's designers and AB Chance Co., the legal successor

in interest to Pitman, all of whom were found to be jointly liable.

Austin Hogan, a partner in the Casualty Department of White & Williams, represented Figgie International Inc. Co-Counselors for AB Chance Co. were John E. Wall and Anthony J. Rash of Dickie McCarty & Chilcote.



PATTON

The plaintiffs claimed that the boulder fell from the rock face, landed on the upper arm and slid down to the basket, knocking them to the ground.

"The rock was roughly about 10 feet by 10 feet by 1 foot," Patton said. "It basically bent the mechanical arm, and both men fell about 20 feet to the ground from the basket in which they were working."

The companies, they alleged, should have been aware that the arm was incapable of withstanding such an impact and an alternative design could have prevented the damage. They argued that a lift equipped with a telescoping arm, as

opposed to the dual-armed scissor boom could have prevented their injuries.

Steve Estrin, a safety engineer based in Sarasota, Fla., testified that the use of this articulated elbow arm left up to 30 feet exposed to the rock face, thus vulnerable to falling rock. He said that the use of an alternative design, such as a hydraulic telescoping platform lift, could reduce that exposed surface to one foot.

According to Patton, experts for defense, including Chicago based consulting engineer Charles Morin, testified that the rock had actually struck the basket in which the men were working first, before hitting the arm, thereby making the design of the arm irrelevant. The defense argued that the men's injuries were inevitable, as the rock would have knocked them from their perch regardless of the type of arm with which the lift was equipped.

"They basically said that there was no way to design any kind of arm that could withstand the pressure of an eight-ton boulder falling 10 feet," Patton said.

The defendants also said neither man was wearing federally mandated safety

belts or lanyards while working in the basket.

Patton said that, although he attempted to exclude this information from the trial, Judge Michael J. Brillhart ruled it admissible. To diminish its impact on his argument, he brought in co-workers of Rauhauer and Leese to testify on their behalf.

"We had two fellow coworkers testify that to the extent that wearing the safety belts was required, it wasn't something that was enforced. So [Rauhauer and Leese] were doing the exact same thing everyone else did," Patton said.

The jury ultimately voted 10-2 in favor of the plaintiffs, awarding the two a total of \$1,017,600. Both suffered fractures to the spine, leg and ankle as a result of the accident.

Patton said the delay damages will bring the estimated total damages to \$2.2 million.

No counsel for the defendants could be reached for comment.