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Paralyzed Man wins \$3.4 Mil. Settlement *Plaintiff Claimed Forklift Not Equipped With Safety Devices*

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Lawyers for a Reading man who was severely injured when a forklift prong struck him in the back last week reached a \$3.4 million settlement with a materials handling company that owned and operated the truck.

Plaintiff's counsel Peter Patton of the Philadelphia firm Galand Berger said that the materials handlers - Modern Handling Equipment Co. - and Scott Laub reached the accord on Monday before a scheduled trial. Philadelphia Common Pleas Court Judge Mark I. Bernstein noted the settlement on the docket on Tuesday.

It was not the first settlement in the case. Another defendant in the case settled for an undisclosed sum at an earlier date, Patton said. Under the settlement, Patton declined to identify the settling defendant.

Laub was a crane operator at the Dana Corp. in Reading. On the night of the accident, according to Patton, Laub was struck in the back by a forklift prong as the lift operator was dropping a load of material.

The crane operator, 35 at the time of the mishap, suffered a fractured rib and a cut artery near the aorta. He was transported to the hospital while in shock and suffered a heart attack related to blood loss. The injuries also included a brain injury, which left him a quadriplegic.

There were also strict liability and breach of warrant claims in the case.

The plaintiff alleged that Modern Handling had been negligent in failing to outfit the lift with appropriate safety devices. Laub's lawyer said the lift should have had a flashing light, convex mirrors and other safety devices.

Modern installed the forks on the lift, a backup alarm, a carview mirror and a fuel indicator, Patton said. None of those items was sufficient to avert the injury.

Two trouble spots for the plaintiff in proving his case were the need to reconstruct the accident from non-eyewitness testimony and a defense that Laub placed himself at a "crush point" between storage racks at Dana's plant.

There were also potential defenses in the action of Laub's employer, which could not be made a defendant to the case under workers' compensation law. Dana allegedly considered and rejected some safety opinions for their forklifts.

Laub is unable to recall the accident due to his brain injury, Patton said. And one co-worker was ready to testify that the crane operator walked away from the incident. Therefore, the plaintiff was prepared to prove the accident through photographs of Laub's wounds and expert testimony from a medical examiner and a biomechanics specialist.

Modern said, in its defense to the strict liability claims, that it was not a seller of the truck since it had never taken title to the forklift, according to Patton. Modern admitted only to installing items on the lift at the expense of Laub's employer, Dana Corp.

Although the strict liability case remained alive, Patton said that the negligence case was stronger in some ways than the strict liability claim. Because the plaintiff could show that

Modern agreed on the need for a systematic analysis of the Dana plant well, Modern could not simply say it was a conduit for the truck, Patton said.

As part of the settlement, an \$800,000 subrogation lien was waived, with the compensation carrier providing an additional \$475,000.

The size of the settlement, Patton said, will guarantee that Laub will be able to receive proper nursing care and medical care that will be needed throughout his life.

Edward Griffith, Richard A. Kraemer and Cindy Meyer were listed in the court docket records as defense counsel of record for Modern.

According to docket entries, other defendants in the case were Nacco Material Handling Group, Inc. and the Hyster Corp., which manufactured the lift itself.