

VERDICTS & SETTLEMENTS



Design Firms Settle With Airport Worker For Boom Collapse

Emerson v. Glazer Enterprises

\$2.4 Million Settlement

Date of Settlement: June 20, 2008.
Court and Case No.: C.P. Philadelphia, 051002984.
Judge: Jacqueline F. Allen.
Type of Action: Product liability and negligence.
Injuries: Spinal and hand fractures.
Plaintiff's Attorney: Richard Jurewicz, Galfand Berger, Philadelphia.
Plaintiff's Experts: Fred Smith, mechanical engineer and product designer, Alpine, Utah; David Pope, Ph.D., metallurgist, Philadelphia; Dr. Ronald Greene, orthopedist, Philadelphia; Dr. Scott Rosenthal, pain management expert, Abington, Pa.; Robert Wolf, Ph.D., economist, Cherry Hill, N.J.
Defense Counsel: Jane North, Deasey Mahoney and Valentini, Philadelphia; John Campbell, Yost & Tretta, Philadelphia; Bruce McKissock, Marshall Dennehey Warner Coleman & Goggin, Philadelphia; Neil Clain, Powell Trachtman, King of Prussia, Pa.; James Lare, Marshall Dennehey Warner Coleman & Goggin, Philadelphia; Andrew Fuga, Powell Trachtman, King of Prussia, Pa.; George Reynolds, Powell Trachtman, King of Prussia, Pa.
Defense Experts: John Dupont, Ph.D., welding expert, Bethlehem, Pa.; Herman Nied, Ph.D., mechanical structures expert, Bethlehem, Pa.
Comment: A US Airways employee fell 30 feet to the ground and suffered several spinal

fractures when the support structure for the deicing equipment he was using broke due to structural defects.

Following the accident, the plaintiff, Robert Emerson, of Plant City, Fla., filed suit against four companies that he alleged failed to properly design, build and test the booms used to support the deicing machine. The defendants settled with Emerson for \$2.4 million on June 20, 2008.

According to Emerson's attorney, Richard Jurewicz, of Galfand Berger in Philadelphia, Emerson commuted each week between his home in Florida and Philadelphia to deice planes departing from Philadelphia International Airport. Emerson controlled the deicing spray from the inside of an enclosed cab, which was supported by a crane-like metal boom.

On Feb. 28, 2005, Emerson had just finished deicing part of a plane when the bottom section of the boom split open, causing the other sections of the boom and the cab — with Emerson still inside — to fall. They fell through the wing of the airplane and then hit the ground.

According to the plaintiff's settlement conference memorandum, Emerson suffered several fractures in his vertebrae and in his right ring finger. He had a mild concussion and the fall left temporary bruises all over his body.

In October 2005, Emerson filed suit against four companies that he alleged were all responsible for the deicer's structural deficiencies — Global Ground Support, a Kansas-based manufacturing company; Elliot Equipment Company, a Nebraska-based manufacturing company; Fluidics Inc., a mechanical construction firm in Philadelphia; and Baker and Associates Inc., an Ohio-based engineering firm.

The Court of Common Pleas docket indicates that defendant Elliot was misnamed "Glazer Enterprises" in the initial lawsuit.

The City of Philadelphia was originally named as a defendant, but was dismissed after proving that, as the lessor of the deicing spaces, it was not responsible for the accident.

The memorandum states that in July

2000, the City of Philadelphia solicited bids for the construction of twelve deicing machines for the airport. The city awarded the contract to Fluidics, even though they lacked the requisite five years of experience in the design and construction of deicing boom systems.

Since Fluidics allegedly had little experience with deicers, they entered into a partnership with Global Ground Support, which would take on the boom manufacturing. However, Global Ground Support also had little experience designing and building the booms, so they subcontracted the work to Elliot Equipment Company. Baker and Associates was responsible for the engineering component of the construction.

The memorandum goes on to state that each of the defendants allegedly failed to review Elliot's designs for the booms, ignored testing reports that indicated structural problems in the boom pieces and used substandard techniques and materials to construct the booms.

The completed booms were allegedly never tested before they were installed at the airport and once in operation were not checked on a monthly basis. As a result, the defendants were unaware of stress fractures and cracks that developed in the booms, ultimately causing Emerson's boom to break.

On May 7, both parties entered into settlement negotiations. John Campbell, of Yost & Tretta in Philadelphia, who represented defendant Fluidics, said the negotiations were both initiated and led by Philadelphia Court of Common Pleas Judge Jacqueline F. Allen. Campbell declined to discuss the case further.

An attorney for Global Ground Support, Bruce McKissock, of Marshall Dennehey Warner Coleman & Goggin in Philadelphia, said that before May 7, both parties had already "been through a prior settlement conference that did not get anywhere."

McKissock added, "The decision to resolve it by compromise rather than face the various results from the jury was deemed the best way to get it resolved."

The plaintiff's pre-settlement memorandum stated that Emerson was demanding \$5.15 million. This amount included his claims of \$128,858 in medical expenses, \$36,383 in wages lost, \$616,990 in future medical expenses, and between \$524,854 and \$915,002 in loss of future earnings, since he was limited to sedentary jobs after the accident. The rest was for pain and suffering, Jurewicz said.

The memorandum also noted that Emerson had rejected the defendants' previous combined settlement offer of \$1.25 million.

Jurewicz said that the \$2.4 million settlement was never broken down to address specific damages. A court order prevented Jurewicz from disclosing how much each of the defendants paid Emerson, since several other lawsuits related to the incident are pending.

David Zeehandelaar, of Blank Rome in Philadelphia, said US Airways and the city of Philadelphia are both suing the same four defendants named by Emerson. US Airways is seeking reimbursement for the damaged plane and the city for the damaged boom. Global Ground Support also filed suit against Elliot Equipment Company, alleging that Elliot was responsible for the poorly made booms.

Zeehandelaar originally represented the city of Philadelphia in the suit filed by Emerson, but withdrew to represent US Airways in their lawsuit against the other four defendants in this case.

The attorney for Elliot Equipment, Jane North, of Deasey Mahoney and Valentini in Philadelphia, declined to comment, except to say that the defendants did not file any pretrial memoranda. James Lare, of Marshall Dennehey Warner Coleman & Goggin in Philadelphia, who represented Global Ground Support, also declined to comment.

Neil Clain and George Reynolds, both of Powell Trachtman Logan Carrle & Lombardo in King of Prussia, Pa., who represented Baker and Associates, did not return requests for comment. Andrew Fuga, also of Powell Trachtman, declined to comment.

—Zoe Tillman, for the Law Weekly

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