

REGIONAL NEWS

Man Strikes \$2.2 Million Settlement in Berks Products Case

BY AMARIS ELLIOTT-ENGEL

Of the Legal Staff

A Schuylkill County man, whose torso was trapped and part of his digestive system cut by a machine that stacks coils of copper tubing in a Reading, Pa., copper factory, has reached a \$2.2 million settlement with the Austrian manufacturer of the machinery, according to a copy of the settlement release.

The Berks County settlement in *Schilbe v. ASMAG* ties for third place for the highest settlements and verdicts reported out of the Berks County Court of Common Pleas for the last 15 years, as tracked in *Legal affiliate PALAW*.

Richard M. Jurewicz of Galfrand Berger was the plaintiff's attorney. Defense counsel was Morton F. Daller of Daller Greenberg & Dietrich in Conshohocken, Pa.

Plaintiff William Schilbe was employed as a production supervisor at Cambridge-Lee Industries in Reading, according to the complaint. Schilbe was working on a machine that stacks coils of copper tubing because a coil had become misaligned and was jamming the machine's motion.

Schilbe's torso was trapped between the frame of the machine and a loading bar on the machine when the loading bar moved on June 17, 2003, according to the complaint.

Part of Schilbe's digestive system, the duodenum, was transected when he was trapped. Schilbe had crush injuries to his abdomen and internal organs, which later required multiple

surgeries, and he also lost consciousness because of respiratory failure, the complaint said.

Defendant ASMAG Anlagenplanung Und Sondermaschinenbau GmbH designs and installs special-purpose machinery for various metal industries, according to court papers. ASMAG designed and installed the coil transport system for Cambridge-Lee Industries, according to court papers.

Schilbe and his wife, Mary Ann, claimed that ASMAG was liable for Schilbe's injuries under claims of negligence, strict liability, breach of warranties and loss of consortium.

The Schilbes alleged in their complaint that ASMAG agreed to provide training on the operation of the machinery, while ASMAG said in its answer that its purchase agreement with Cambridge-Lee provided that Cambridge-Lee would educate its personnel on the use of the machinery.

ASMAG said in its answer that ASMAG was not the cause or contributing factor of Schilbe's injuries, the equipment involved in the accident was not unreasonably dangerous for its ordinary intended use and Schilbe might have been contributorily negligent or assumed the risk of entering the machine.

The plaintiff's legal theory was that the machine should have had a metal guard where the



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copper coils entered the machine and that there should have been a mode on the machine's control panel to manipulate the coil when the coils got stuck, Jurewicz said.

If there had been a way to reverse the bar that came down to pin Schilbe, Schilbe might not have become catatonic while the machine was disassembled in order to release him, Jurewicz said.

The defendant's legal theory was that ASMAG built the machine to the specification of plaintiff's employer to match an older coil stacker machine that also did not have guarding, Jurewicz said.

According to Jurewicz, ASMAG said in its quote for duplicating the machine that it included the installation of guards that were new to the machine's design, but Cambridge-Lee said it would install the guards on its own as a cost-saving measure. Those guards were never installed, Jurewicz said.

The workers' compensation lien is \$1.5 million, Jurewicz said, but Zurich, the workers' compensation carrier, has agreed to take less than 50 cents on the dollar on the lien because it could be argued the employer was negligent.

Zurich's workers' compensation attorney, Gerard Lipski of Kennedy Daniel & Lipski, did not immediately return a call Wednesday.

Jurewicz said he also argued that the old stacker machine didn't have a cross-frame bar, but the bar was introduced by ASMAG and formed a "pinch point hazard" that trapped his client. He also argued that because ASMAG provided guards on other parts of the coil stacker machine and other

integrated pieces of machinery that it should have put the guard where the copper coils entered the machine and where Schilbe got trapped.

Schilbe said he was simply reaching in to reposition the coil when the machine operator started up the machine when he wasn't expecting it, while the machine operator and another employee said Schilbe gestured for the machine to be started up, Jurewicz said.

ASMAG's insurance carrier is Allianz Insurance, Jurewicz said.

It took a year-and-a-half to serve ASMAG with the complaint through an international process server and to get an order from an Austrian court to permit ASMAG to be served with the complaint, Jurewicz said.

Jurewicz said the settlement level shows that "you can get a good number regardless of what county you're in."

Daller said he couldn't comment on the settlement because the settlement was not yet completed and might be subject to a confidentiality provision. Jurewicz said the settlement was not subject to confidentiality.

The other leading verdicts and settlements reported out of Berks County include a \$3.4 million verdict from 2007 in a medical malpractice case, *Davis v. Rinaldi*; a \$2.5 million settlement from 2007 in a premises liability/workplace injury case, *Guido v. Koch Materials Co.* (in which the plaintiff's attorney involved in the *Schilbe* case was also involved); and a \$2.2 million verdict from 2001 in an equity case, *Vener v. Jacobs*.