

Fatal Industrial Accident Case Settles for \$3.5 Million

A case involving a man who died after he was struck by a large metal bucket suspended from a crane has been settled for \$3.5 million.

The parties in *Doan v. Electrolift* agreed to the accord Oct. 24, according to the Philadelphia Court of Common Pleas case docket.

Payment of the settlement, to be disbursed to Debra Doan—the widow of Ray Doan Jr.—is divided between five defendants, according to plaintiff's attorney Thomas W. Sheridan of Philadelphia-based Sheridan & Murray.

Of the \$3.5 million lump sum, Sheridan said, \$1.9 million is to be paid out by Bitterman Scales; \$1.5 million is to be paid by Superior Walls of America (SWA); and the remaining \$100,000 payout is split an even three ways between Electrolift Inc., Hoist & Crane Systems Inc. and Piedmont Hoist & Crane Systems Inc.

"This is another case where worker safety was put behind productivity and profit," Sheridan said. "This was not a safe work environment. And tragically a man died right in front of his son, who was working next to him. That's the saddest part of this case."

According to the plaintiffs pretrial memorandum, the accident occurred in May 2008 while Ray Doan was working at Advanced Concrete Systems Inc. (ACS) in Middleburg, Pa., a franchisee of SWA and manufacturer of SWA concrete products.

The accident was caused by the shearing of a chain link that suspended the large metal bucket from a crane overhead. The bucket dropped and a vibrating metal strip attached to it hit Doan in the back of the neck, court papers alleged.

Doan was transported to the hospital but doctors were unable to save him. Doan's wife and son opted to remove him from life support, court papers said.

"This link was not designed for, nor permitted to be used, in overhead lifting operations. ACS was using this link in an unsafe and dangerous manner at its manufacturing facility," court papers said.

The plaintiffs alleged that because SWA had significant rights of control over ACS, SWA had a responsibility to ensure the safety of employees working in the Middleburg plant and that they were responsible under Occupational Safety and Health Administration regulations.

Bitterman Scales was liable because it was hired by ACS to conduct safety tests on the crane's rigging. According to court papers, Bitterman admitted that it was not qualified to conduct load tests and that they never inspected the rigging.

According to the plaintiffs court papers, Craig Bitterman of Bitterman Scales testified that "I'm not here to tell them whether that's safe or not. I don't in one way even care. As long as I'm doing the job that I was hired to do, they can lift it with a rubber band or a string or a telephone pole or a chain. I don't care. As long as I don't feel my safety is being threatened, they can lift it with anything."

Additionally, the Electrolift, Piedmont and Hoist & Crane companies were allegedly liable for supplying products to ACS that had defective warnings, according to the plaintiffs papers.

"Each of these products was required to have a warning against lifting the load/operating crane in a position overhead of workers," court papers said.

According to Bitterman's pretrial memorandum, the Bitterman company was never asked to inspect the link that would later be involved in the accident, as such, Bitterman Scales claimed it had no duty to do so.

SWA claimed in its defense papers that ACS was an independent contractor, and the franchise agreement between the two companies specified that SWA had no control over ACS's business.

The overhead crane and linkage were the property of ACS and, therefore, SWA had no duty of responsibility owed to Doan, SWA's papers said.

Electrolift, the manufacturer of the crane, said in its defense memorandum that it had nothing to do with the link that failed, and that it sold the crane in question to a third party and therefore did not know that ACS had installed its own riggings onto the crane.

Hoist & Crane alleged that the cause of the incident was ACS's failure to properly inspect the link as well as the crane operator's failure to make sure other personnel were out of harm's way, according to Hoist & Crane's defense papers.

Finally, Piedmont claimed that there was no evidence that it sold to ACS the remote control that ACS used to operate the overhead crane, or that the control lacked sufficient safety warnings, according to Piedmont's defense papers.

Sheridan's partner, Neil T. Murray, said, "This was a tragedy that was entirely preventable. Under the safety standards, Bitterman was required to remove the link. If they had removed it, Ray Doan wouldn't have died."

The attorney for Hoist & Crane, Eric A. Weiss of Marshall Dennehey Warner Coleman & Goggin, declined to comment.

Counsel for the additional defendants did not return calls seeking comment.