

TS & SETTLEMENTS



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\$2.1 million settlement for fatality, injury from fallen cherry picker

Case: Marino Medina and Raquel Munoz v. Scott Technologies, Textron Inc., Snorkel International Freightliner, Fine Air Services Corp. of Delaware, Arrow Air Inc.

Case no: 02-03316 and 03-14907

Description: Products liability, Occupational Safety and Health Administration violations and negligence

Filing dates: Feb. 5, 2002 and June 25, 2003

Settlement date: March 3, 2009

Settlement amount: \$2.1 million

Judge: Miami-Dade Circuit Judge Michael Genden

Plaintiff attorney: Daren Stabinski and Daniel Caine, Stabinski & Funt, Miami; Ronald Rodman, Friedman Rodman & Frank, Miami; Pamela Beckham, Beckham & Beckham, North Miami Beach

Defense attorneys: Damian Fletcher and Arthur LaPlante, Hinshaw & Culbertson, Fort Lauderdale

Details: Mechanics Marino Medina and Benjamin Munoz were working for Fine Air Services on a Boeing 727 cargo jet at Miami International Airport when their Snorkelift cherry picker tipped over, tossing them 50 feet to the ground Feb. 7, 2000. The pair hadn't extended outriggers, which would have stopped the lift from operating and prevented the accident, plaintiff attorneys conceded.

Munoz died within minutes of the fall, and Medina underwent 16 surgeries and uses a cane to walk. The defendants settled with Munoz's wife, Raquel, for \$750,000 and Medina for \$1.35 million.

The case was stayed for years with Fine Air in bankruptcy.

Plaintiff case: Medina and Munoz's wife sued the companies that designed, assembled, manufactured, sold and distributed the cherry picker, alleging the equipment was unreasonably dangerous.

Plaintiff attorneys argued the men were able to operate the lift without extended outriggers because of a lack of interlocking devices.

"There was a miscommunication between our clients," Stabinski said. "One thought the other put the outriggers out and vice versa." The plaintiffs claimed technology to prevent the accident was available when the machine was manufactured in 1978 by Snorkel Fire Equipment, which through mergers was bought by Textron.

They also alleged improper maintenance



A.M. HOLT

Plaintiff attorneys Daren Stabinski, Daniel Caine and Ronald Rodman argued the men were able to operate the lift without extended outriggers because of a lack of interlocking devices.

and poor training.

The plaintiffs cited a two-page report indicating a locking device was available as early as 1970 on special order, and updated models with the device were introduced in 1981.

"It contradicted what their people were saying about the feasibility," Stabinski said. "They were claiming it wasn't feasible based on the technology that was available."

The airline defendants settled in 2007. The other defendants settled days before trial was scheduled to begin March 9.

Defense case: Fletcher declined to comment, and LaPlante did not return calls seeking comment by deadline.

The defense lost its argument that the lawsuit was barred by the statute of repose based on the year the lift was built when Miami-Dade Circuit Court Judge Jon Gordon ruled the statute didn't apply.

Stabinski said defense experts including a mechanical engineer and a human factors expert would have argued that people who use safety devices often become overly reliant on them and get careless.

Comments: "I think it was a risky case on both sides," he said. "On our side we had to go into trial admitting we made a mistake. We admitted they didn't put the outriggers out, which they were supposed to do."

Post-settlement: A stipulation of dismissal was entered in the court file May 4, and Genden entered a final judgment the same day.

— Alana Roberts