

PREMISES LIABILITY

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SETTLEMENT — Electrician falls 20 feet from building ladder while setting up for TV filming

PREMISES LIABILITY

Fall From Elevation/Ladder/Negligent
Repair/Maintenance/Retail & Other Business Properties

LOS ANGELES COUNTY SUPERIOR COURT

Confidential v. Confidential, Docket number: BC343940,
Downtown. Judge: Not reported. Trial type: Settlement.
Settlement date: 4/9/2007.

SETTLEMENT: \$5,050,000

After a second mediation session with Viggo Boserup, Esq., the parties reached a settlement of \$5,050,000, with plaintiff agreeing to close out his pending workers' compensation case and full credit rights.

COUNSEL

Plaintiff: Eric F. Yuhl, Yuhl Stoner Carr, Santa Monica.
William E. Stoner, Yuhl Stoner Carr, Santa Monica.

Defendant: Andrew O. Smith, Yoka & Smith, Los Angeles.
Chris Faenza, Yoka & Smith, Los Angeles.

Cross-defendant: Donald Forgey, Lewis Brisbois Bisgaard & Smith, Los Angeles.

FACTS/CONTENTIONS

According to plaintiff: On June 28, 2005, plaintiff, a 36-year union electrician, working for a television production company on a popular TV series, was placing electrical cable on the roof of a downtown LA warehouse as part of setting up lighting for a location filming. In order to run cable

down to the generator two floors below on the street, plaintiff attempted to climb down a fixed exterior building ladder, so that electrical cable could be lowered to him on the lower roof.

Plaintiff's plan was to then lower the cable to a co-worker on the street. Unknown, and invisible to plaintiff from above, was the fact that the ladder had been cut 20 feet short of the lower roof landing. When plaintiff reached the last rung, his feet slipped; plaintiff lost his grip and fell 20 feet to the roof below.

Plaintiff alleged defendant, the building owner, was negligent for creating or maintaining a dangerous condition on his property, knowing the roof top would be used for on-location filming. The ladder operated as a de facto fire escape in the event of an emergency. Evidence suggested the owner, or his predecessor, cut the ladder to prevent "homeless people" from breaking into his building, even though the owner admitted the ladder was rendered unsafe as a result. No warnings were posted, and the missing 20-foot section of the ladder was not apparent when looking down from the upper roof.

Defendant contended that the film crew was not authorized to be on the roof. The ladder was marked with caution tape and a warning sign. Plaintiff ignored the warnings and negligently used the ladder at his own risk in order to take a short cut. Defendant cross-complained against plaintiff's employer; defendant alleged comparative fault due to inadequate walk-through inspection prior to allowing employees on the roof.

CLAIMED INJURIES

According to plaintiff: Chronic pain; depression; severe compound fractures to the tibia and fibula, requiring extensive surgical implementation; thoracic compression fractures; herniated disc lumbar spine. Plaintiff's treating neurosurgeon recommended two separate spinal procedures to correct the deformity in the mid-back, causing "flat back syndrome" and an L4-L5 fusion.

Plaintiff underwent extensive internal fixation for the orthopedic injuries. Both sides agreed plaintiff could not return to his previous occupation due to residuals. The defense denied that plaintiff would require future care for his leg fractures, including an ankle fusion recommended by plaintiff's treating orthopedic surgeon.

CLAIMED DAMAGES

According to plaintiff: All medical expenses were paid by workers' compensation. Plaintiff claimed future care needs in excess of \$500,000, and in excess of \$1 million in wage loss, including offset for retraining.

SETTLEMENT DISCUSSIONS

According to plaintiff: Demand: \$6.495 million; Offer: \$2 million.

EXPERTS

Plaintiff: Gene Bruno, M.S., vocational rehabilitation consultant, Gene Bruno & Associates, Los Angeles (310) 472-8833. Ted Vavoulis, Ph.D., economist, Vavoulis & Weiner, Pasadena (213) 817-6600. Jeffrey M. Colbert, M.D., orthopedic surgeon, Marina del Rey (310) 301-2400. Todd Lanman, M.D., neurosurgeon, West Coast Medical Neurosurgical Associates, Inc., Los Angeles (310) 659-6628. Lawrence R. Miller, M.D., psychiatrist, Beverly Hills (310) 657-6300.

Defendant: Ronald S. Kvitne, M.D., orthopedic surgeon, Kerlan-Jobe Orthopedic Clinics, Inglewood (310) 674-5200. Srinath Samudrala, M.D., neurosurgeon, USC University Hospital, Dept. of Neurological Surgery, Los Angeles (323) 226-7421.

EXPERT TESTIMONY

According to plaintiff: Defendant expert Srinath Samudrala, M.D., a neurosurgeon, opined that plaintiff would not need any spinal procedures, calling them too risky.