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Forklift Manufacturer Not Liable for Worker's Injuries

Kovacevich v. Crown Equipment Defense Verdict

The Legal Intelligencer

February 16, 2016

Date of Verdict: Jan. 21.

Court and Case No.: C.P. Philadelphia No. 130703315.

Judge: Marlene Lachman.

Type of Action: Personal injury, premises liability, products liability.

Injuries: Fracture, wounds.

Plaintiffs Counsel: Brandon Swartz and Bryan Ferris, Swartz Culleton, Newtown.

Defense Counsel: Thomas Cullen Jr. and Kali A. Enyeart, Ryan Sullivan, Goodell, DeVries, Leech & Dann, Baltimore.

Plaintiffs Experts: Steven Wilcox, human factors, Philadelphia; Craig Clauser, mechanical engineer, West Chester.

Defense Experts: John Johnson, engineer; Dan Dunlap, engineer; Ron Crisez, mechanical engineer.

Comment: A Philadelphia jury found in favor of a forklift manufacturer in a personal injury and products liability suit brought by a worker injured when a machine was driven "forks first" into him from behind.



Christopher Kovacevich sued Crown Equipment Corp. after a workplace accident that occurred Feb. 18, 2013, at the Philadelphia Wholesale Produce Market, where Kovacevich was working as a salesman, according to his pretrial memorandum. A co-worker, Ernest Scarlata, drove the pallet jack of a forklift directly into Kovacevich, the memo said. Scarlata testified that he never saw Kovacevich because of a tall load of fruit he was carrying on the forklift, the memo said.

Kovacevich suffered a midshaft leg fracture, which was open and compound in nature. He had a metal rod inserted from the base of his fibula to aid in healing, the memo said. He also developed a wound opening from his compound fracture, incurred mild shortening of his left leg and, after almost a year of physical therapy, still has pain and an abnormality of gait, the memo said.

Kovacevich's memo said he expects to undergo future surgery, including arthroscopy of his ankle and repair of his peroneal tendons.

In its pretrial memo, Crown Equipment said the operator manual for the forklift advises operators to "travel in the direction that gives them the best view and to look where they are driving." The company said the pallet jack was reasonably designed and manufactured, and that Scarlata's actions were the cause of the accident and Kovacevich's subsequent injuries.

In his memo, Kovacevich cited economic damages ranging from \$2.6 million to \$3.1 million, and he made a \$5 million settlement demand, which Crown Equipment called "unreasonable."

After a nine-day trial and a half hour of deliberation, the 12-member jury returned a full defense verdict.

Thomas Cullen Jr., representing Crown Equipment, said the company "continues to believe that jurors across the country will fairly evaluate the engineering evidence when making decisions regarding the safety of its machines. Crown believes it is important to defend the integrity of its design choices and its products when they are unfairly challenged."

Kovacevich's counsel Brandon Swartz could not be reached for comment on the verdict.

— Ben Seal, of the Law Weekly •

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