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# Jury Awards \$1.8M To Man With Chemical Burns

Keith v. Hatfield Quality Meats—\$1.8M Verdict

The Legal Intelligencer

March 27, 2016

**Date of Verdict:** March 17.

**Court and Case No.:** C.P. Philadelphia No. 130703603.

**Judge:** Mary Colins.

**Type of Action:** Premises Liability.

**Injuries:** Partial blindness, disfigurement.

**Plaintiffs Counsel:** Robert Mongeluzzi and Jeffrey P. Goodman of Mongeluzzi Barrett & Bendesky, Philadelphia.

**Defense Counsel:** Theodore M. Schaer of Zarwin Baum DeVito Kaplan Schaer & Toddy, Philadelphia.

**Plaintiffs Experts:** Matthew Stein, eyewash design engineer, Truckee, California; Hugh Borbidge, 3-D visualization, Abington; Dominick Salvatore, safety standards expert, Philadelphia; J. Bradley Randleman, eye trauma expert, Atlanta, Georgia; Charles Kincaid, vocational expert, Hackensack, New Jersey.; Andrew Verzilli, Lansdale.

**Defense Experts:** Joseph Mills, expert engineer, Mantua, New Jersey; Eydie Miller-Ellis, eye trauma expert, Philadelphia.

**Comment:** A Philadelphia jury awarded a sanitation worker more than \$1.8 million after he was partially blinded when caustic chemicals splashed into his eye while cleaning a Hatfield Quality Meats processing plant.

After nearly two weeks of trial, the verdict in Keith v. Hatfield Quality Meats was handed up March 17. The jury found Hatfield 87 percent liable for plaintiff Joseph Keith Jr.'s injuries, which means Keith can recover nearly \$1.6 million.

Keith, who was 27 when he sustained the injury, had contended that eyewash stations in the plant were not properly accessible, which prolonged the exposure that ultimately led to his partial blindness and disfigurement.

According to Saltz Mongeluzzi Barrett & Bendesky attorney Robert Mongeluzzi, who, along with Jeffrey P. Goodman, tried the case as Keith's lawyer, much of the trial focused on the U.S. Occupational Safety and Health Administration and American National Standards Institute regulations for eyewash stations, and the company's alleged failure to live up to those requirements.

According to Keith's pretrial memo, as he was wrapping a hosing that he'd earlier used to clean the facility with sodium hydroxide, the hose struck him in the face, knocked off his protective glasses, and caused the chemical to drip into his right eye. He then washed the eye out in a nearby sink, but, according to his memo, it was 10 minutes before he could access an eyewash station.

"The injuries from this splash would have been minimal and completely recoverable had Mr. Keith been able to access an eyewash station in a timely manner to irrigate his eye," the plaintiff's pretrial memo said. "However, defendant Hatfield violated OSHA regulations and ANSI standards by failing to supply an eyewash station in the room where Mr. Keith was working."

The memo said the nearest eyewash stations were 155 feet and 210 feet away, and there were several obstructions, including one station, which he ultimately used, being locked in the plant's chemicals room. According to the memo, eyewash stations should be within 50 feet of where the chemicals are being used, and there should not be any obstructions.

Hatfield's memo, however, contended that Keith's employer failed to properly train him because there was an eyewash station directly adjacent to where the accident occurred. The employer, the memo further argued, had also determined the location of the eyewash stations and the station for storing the hose.

Hatfield also noted that OSHA officials visited the plant on a quarterly basis, but the plant was never cited for violations regarding the eyewash stations. The defendant further questioned Keith's account of the incident, questioning whether he was properly wearing his safety goggles at the time.

"Mr. Keith placed himself at significant risk of physical harm when he decided to work with a hose containing chemicals in an area without knowing where the nearest eyewash station was located, despite his knowledge and training regarding the importance of knowing the location of the nearest eyewash station when working with chemicals," Hatfield's memo said.

According to Mongeluzzi, causation was a major trial issue, and Dr. James Randleman testified for Keith that having a closer eyewash station would have significantly lessened the injuries.

Mongeluzzi also said the defense's ophthalmology expert opined that the damage to Keith's eye was instantaneous, and therefore the spacing of the eyewash stations was irrelevant. However, according to Mongeluzzi, on cross-examination it came out that her conclusion

was based on the chemical solution being 49 percent sodium hydroxide, but the solution Keith had used was only 1 percent sodium hydroxide.

Regarding damages, Keith's memo said he was rendered blind in his right eye and deaf in his right ear. He claimed to suffer an economic loss, including lost earning capacity and future medical care, of between \$1.8 million and \$2.5 million.

He was also permanently disfigured, and "looks like a monster to his five children and their friends," the memo said.

According to the memo, Keith expected a workers' compensation lien of more than \$234,000.

Hatfield contended that Keith is very capable of working, and noted that he initiated several business ventures after the incident, including forming a hotel and car rental referral service company, selling Avon products with his wife and creating a construction business. Hatfield further argued that Keith overstated his injuries.

— Max Mitchell, of the Law Weekly •

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