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## VERDICTS & SETTLEMENTS

### Mechanic Nets \$1.45 Mil. for Fall From Rock Truck

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A 41-year-old mechanic who claimed permanent work restrictions and a damaged family life has secured a \$1.25 million settlement for injuries sustained when he fell from a large rock truck at a construction site.

The parties in *Lettiere v. Haines & Kibblehouse* arrived at the settlement on Monday afternoon. Plaintiff's attorney Edward F. Chacker of Gay Chacker & Mittin said that in addition to the settlement, a workers' compensation lien of \$131,000 has been waived, and Lettiere received a \$75,000 workers' compensation payment.

The settlement came about a week before a jury trial in the Philadelphia Court of Common Pleas was to commence before Judge Jacqueline F. Allen.

Chacker said the case was a strange one because it took a year to identify the employee who allegedly caused the fall. He said the individual managing the construction site on the day of the accident had no record of the rock truck or its driver.

Chacker eventually tracked down the driver, allegedly a union laborer hired by the defendants, by calling the Local 542 laborers' union and describing the man to a business agent there.

"What we found at [the driver's] deposition was that he was pulled from another job site to come to the one where my [client] got hurt, and the truck was just brought in that morning," Chacker said.

According to Chacker, the defense initially took the position that people from the laborers' union did not operate rock trucks.

"The defendant did not know anything about this accident for two years until the complaint was filed, so their position was that they didn't know anything about this, they didn't owe any money and they didn't know who the driver was," Chacker said.

However, the driver's deposition changed the course of the case, he said.

According to Lettiere's pretrial memorandum, he was on a ladder repairing a rock truck when defendants Haines & Kibblehouse and Intech Construction's employee climbed into the truck's cab, grabbing the steering wheel as he did so, causing the truck to shift. The plaintiff fell approximately 15 feet, landing on his buttocks and elbow. He was able to continue working that day.

On July 18, 1999, 12 days after the accident,

Lettiere arrived at Grandview Hospital's emergency room complaining of lower back and right leg pain that prevented him from walking, the memo said.

According to the memo, Dr. Ernest Cope performed a magnetic resonance imaging study on July 19 and diagnosed a herniated disc pressing on a nerve in Lettiere's back. Cope recommended conservative treatment including anti-inflammatories, pain medication, epidural steroid injections and physical therapy.

The plaintiff alleged that the conservative treatment failed and back surgery was necessary. According to his memorandum, Lettiere underwent a hemilaminectomy micro-disc surgery on Aug. 13, 1999. He returned to full duty work approximately three months later.

In March 2000, however, the plaintiff suffered acute back and right leg pain, the pretrial memo said. Cope diagnosed lumbar radiculitis, an inflammation of the spinal cord root, and Lettiere later saw neurosurgeon Dr. Leonard A. Bruno for a second opinion.

According to the memo, Bruno ordered a lumbar myelogram and after performing a bilateral laminectomy and bilateral foraminotomy, found a recurrent disc herniation with scarring from the plaintiff's first surgery.

The plaintiff subsequently underwent a series of additional back treatments, the memo said. He currently takes Celebrex, Neurontin and Flexeril.

Lettiere alleged that he would continue to need back treatments indefinitely. He also claimed his ability to work would be permanently restricted, resulting in reduced earning capacity.

In his pretrial memo, Lettiere also asserted that his family life had been impaired by his pain and suffering. The memo indicated that as a result of taking copious amounts of pain medication and seeking solace in alcohol, Lettiere became abusive toward his wife and children.

"There were incidents where he was out of control, and the police had to be called," the memo said. "The children began acting out and Mrs. Lettiere was called to school. . . . She had to take full responsibility for the household."

In their pretrial memo, Haines & Kibblehouse and Intech Construction contended that in November 1999, Cope reported that Lettiere was doing very



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well after his initial surgery; could return to full duty work; and was not suffering from significant back or leg pain, numbness, weakness, or loss of bowel/bladder function.

The defendants alleged that in late December 1999, the plaintiff reported that his back was fine and he had been working 60 to 70 hours per week.

"When seen again on March 24, 2000 plaintiff reported injuring himself on the job eight days earlier,"

the defendants' memo said. "In his employee report of personal injury plaintiff described swinging a sledge hammer and a 60 pound solid steel bar for three hours. It was only after this accident that plaintiff ceased working completely."

Haines & Kibblehouse and Intech Construction went on to assert that when Lettiere saw Bruno four months later, he failed to inform the surgeon about the incident with the sledgehammer.

Chacker said the sledgehammer argument was somewhat troubling, but that the defendants did not have medical testimony to support it.

In addition to their claim that the second surgery was not a result of the subject accident, the defendants alleged that the plaintiff's lost wages did not allow for a pre-accident condition.

"In June 1995 plaintiff was administered an epidural injection for degenerative disc disease," the memo said. ". . . In 1997 and 1999 plaintiff saw Dr. Cope with complaints of pain in the left ankle apparently related to an earlier injury. In 1998 he saw Dr. Cope complaining of pain in the right shoulder. . . . In late 1999 the diagnosis was impingement syndrome of the left shoulder. . . . Plaintiff was also experiencing problems with alcohol consumption from 1997 through early 1999."

According to Chacker, the degenerative disc disease was irrelevant because the plaintiff still exhibited a herniation. He said the herniation was traumatic rather than one that developed slowly over time.

Charles L. McNabb of Kennedy Walker & Lipski represented the defendants. He declined to comment on the settlement.

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