

VERDICTS SETTLEMENTS

\$300,000 For Fracture of Distal Index Finger

Boltz v. Megomat USA

\$300,000 Settlement

Date of Verdict:
Nov. 16, 2004.

Court and Case Number:
E.D. Pa., Civil Action No. 04-3549.

Judge:
Marvin Katz.

Type of Action:
Products Liability.

Injuries:
Comminuted fracture of right distal index finger leading to eventual amputation.

Plaintiff's Attorney:
Richard M. Jurewicz, Galand Berger Philadelphia.

Defense Attorney:
Gary Williams, Jenkins Wolf Rubinate Hasson & Striades, Philadelphia.

Plaintiff's Experts:
Lance Yarus, M.D., orthopedic surgeon, Lebanon; Frederick Blum, P.E., mechanical engineer, Berwyn.

Defense Experts:
Stephen Cash, M.D., orthopedic surgeon, Bryn Mawr.

Comments:
Arlene Boltz, 47, sued Megomat USA for strict liability after an alleged machine malfunction on Nov. 22, 2002, caused her to suffer a comminuted fracture of the right distal index finger, which ultimately required

amputation of the finger, according to her attorney, Richard M. Jurewicz.

At the time, Boltz was employed as a machine operator for a company that manufactures electrical wiring harnesses for the automobile and motorcycle industry. Megomat manufactured an automatic wire processing system used in the company's production of the electrical wiring harnesses. According to Jurewicz, the Megomat machine cut and stripped wires fed into a machine Boltz operated, and then placed brass terminals at the end of the wire stripes with a terminal stamping press.

On the morning of the accident, Boltz noticed that the terminal stamping press was producing wires without brass terminal ends, Jurewicz said. She proceeded to shut off the automated wire processing equipment, and then rotated the terminal stamping press away from the automated wire-processing machine so that she could troubleshoot the problem. Boltz claimed that she had turned the power off on the stamping terminal press.

According to Jurewicz, Boltz testified that she placed her hand into the point of the operation of the press to realign the terminal rail, and at that moment, the terminal stamping press allegedly malfunctioned, going through a stroke resulting in the top portion of her right index finger being crushed between the top and lower die.

Following the accident, Boltz's employer was unable to duplicate the malfunction, Jurewicz said.

After three months of disability, Boltz returned to work in the same position that she

held before her accident. However, Jurewicz said, she developed a painful neuroma in her finger which required her finger to be amputated. After this procedure, Boltz was cleared to return to work but was discharged for reasons unrelated to her injuries.

Over the course of a year and a half, Boltz incurred a total of 26 weeks of disability, and her wage loss was \$12,600, Jurewicz said. Her medical bills totaled \$8,332, which included three surgical procedures performed on her injured finger.

Boltz claimed that Megomat was strictly liable to her on two counts.

First, she argued that the subject terminal press malfunctioned. However, Jurewicz said, Boltz had to concede that the machine was under power, which was inconsistent with what she told her supervisor after the accident. Boltz had told her supervisor the machine was shut off when the incident occurred, and the equipment cycled on its own. But both plaintiff and defense experts agreed that the machine could not malfunction if power to it had been turned off.

Boltz also claimed that the equipment was defectively designed because it was not provided with a guard for the point of operation during the manual mode of operation.

Defense counsel Gary Williams declined to comment. According to Jurewicz, the defense disputed the plaintiff's claim that a guard for the manual mode was necessary, arguing that the equipment was fully safe-guarded when it was used in its automatic mode of operation, which is how the equipment was designed to operate.

Boltz sought to introduce into evidence the remedial measures taken by her employer following her accident to support her claim that the product was defective. According to Jurewicz, the employer installed on the subject terminal press a lock out bar that could be inserted in between the upper and lower dies to prevent the press from unexpectedly cycling even if power to it were left on.

According to Jurewicz, defense counsel deemed that a safety bar was necessary, and further claimed that for this type of press such a device did not need to be used.

The defense also contended that Boltz assumed the risk of her injuries.

The case settled on the eve of trial, Jurewicz said.