

REGIONAL NEWS

Injured Worker Settles Lawsuit for \$2.25 Million

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Of the Legal Staff

A former Lehigh County maintenance worker who in September 1999 fell more than 25 feet from the crane he was repairing has secured a \$2.25 million settlement of the products liability action he brought against the companies contracted to design and manufacture the crane.

Plaintiff Gerald Kronk's attorney, Richard M. Jurewicz of Galfand Berger in Philadelphia, said that the insurance carrier for Philadelphia Tramrail Co. would pay slightly in excess of \$2 million of the settlement.

Kronk alleged that Philadelphia Tramrail did not outfit the crane with a proper crossover walkway by which workers could move between two service platforms on opposing sides of the crane, according to mediation papers.

Philadelphia Tramrail countered that it had only been peripherally involved in the project to build the crane for Kronk's employer, Vicnaulic Co. of America, while Vicnaulic's crane, according to Tramrail's mediation papers, was actually assembled, installed and serviced by Morris Material Handling Inc. — the same company to which Philadelphia Tramrail sold its crane division in January 1999.

Jurewicz said that Morris Material

Handling filed for bankruptcy prior to Kronk's filing his suit and that the concurrent liquidation of Morris Material Handling's insurer, Reliance Insurance Co., led to Kronk's focusing on his case against Philadelphia Tramrail.

According to mediation papers, Vicnaulic's maintenance department was notified on the morning of Kronk's accident that the recently installed double-grider, overhead traveling crane in question had stalled on its tracks.

Jurewicz said that the remote-control-operated crane, which ran east-west on its tracks, was suspended high above the ground of Vicnaulic's Alburitis foundry and could be reached by maintenance staff via intermittent access points located on elevated walkways on the foundry's north and south walls.

Kronk was assigned to troubleshoot the crane's malfunction, mediation papers stated, and soon noticed that the crane had stalled in such a way that, while he could reach the crane from an access point on the building's north-side walkway, a column on the south-side of the foundry would prevent

him from accessing the side of the crane he knew he would have to inspect.

According to mediation papers, Kronk climbed a ladder on the northern wall and stepped onto the crane. He then attempted to cross a five-foot long, eight-inch wide I-beam to the opposite side of the crane. While doing so, he lost his balance and fell to the ground.

According to his mediation memorandum, Kronk suffered, among other injuries, a burst fracture of a vertebra,

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Fracture of a vertebra, a shattered femur, a puncture wound to the bicep and traumatic brain injury. His subsequent medical expenses have totaled over \$250,000. In preparing his lawsuit, Kronk obtained testimony from Philadelphia Tramrail employees that they had observed that

workers in the field using the company's cranes would often cross the machine's I-beam in absence of a proper walkway.

Philadelphia Tramrail stated in its memorandum that the company had merely drawn up plans for the crane, accepted the initial deposit for it, ordered its parts and spent roughly 15 hours' shop time in its assem-

blage. Morris Material Handling, it alleged, had handled all other aspects of the crane's purchase, including modifications. It noted that a U.S. district court judge from New Jersey, in a decision related to Kronk's action, had effectively found Philadelphia Tramrail not responsible for the crane in question.

Both Philadelphia Tramrail and Morris Material Handling noted in their memoranda that Vicnaulic had been cited by the Occupational Safety and Health Administration for not providing their employees with proper fall-protection equipment.

Jurewicz said that Morris Material Handling's excess insurance carrier would pay the remainder of Kronk's settlement. He said that in early December 2003, the parties submitted to a day-long mediation before Ronald Sherer of ADR Options, at which Kronk's demand of \$4.5 million and Philadelphia Tramrail's \$2 million offer were both rejected. The settlement was agreed to two days ago, Jurewicz said, following continued negotiations with Sherer's assistance.

James J. Donohue and Edward M. Koch of White & Williams represented Philadelphia Tramrail. William G. Clingman of Nautly Scaricamazza & McDewitt was Morris Material Handling's attorney. None immediately responded to calls seeking comment.