

Meat press machine: Worker's arm caught between compression plates: Improper modification: Arm fractures: Structured settlement.

Wortham v. SFK-Danfotech, U.S. Dist. Ct., E.D. Pa., No. 04-CV-976, Dec. 8, 2004.

Wortham, 52, was using an SFK-Danfotech Bacon Press machine at a meat processing company. The chamber in the machine for compressing meat was originally outfitted with an interlocking Plexiglas lid. To feed meat into the chamber, an operator would have to lift the lid up to its loading position. After placing the meat into the compression chamber, the operator would close the lid, and safety interlocks would keep the lid in a locked position during the compression process.

Shortly after the machine was installed, Wortham's employer decided to convert the machine so that it could be fed remotely by a conveyor and run automatically. The employer consulted the manufacturer's U.S. subsidiary, which modified the machine by removing the lid and inserting an open hopper in which the conveyor could automatically dump the meat into the mixing chamber. The company also reprogrammed the machine's control panel to make the reset button the means by which the machine would be cycled. The conveyor was never added to the machine, and workers continued using the machine in the manual mode by feeding meat manually down into the open hopper.

While Wortham was operating the machine, a buildup of meat became lodged inside the hopper. He depressed the reset button, thus holding the compression plates in the open position, and reached inside to dislodge the meat. While he was attempting to clear the jam, his finger slipped off the reset button, and the compression plates closed on his right, dominant arm. He suffered comminuted, angulated fractures of the ulna and radius bones and a comminuted fracture of the distal radius. Wortham incurred about \$71,800 in medical expenses. He now has reduced grip strength and loss of fine dexterity in his right hand. A machine operator earning about \$7 an hour at the time of the incident, he returned to light-duty work at the same rate of pay after about five months but had to leave work again after undergoing more procedures on his arm. He has not yet returned to work. His past lost wages totaled about \$5,600, and his lost future wages are estimated at \$110,000.

Wortham sued the Danish manufacturer of the machine

and its U.S. subsidiary, alleging the subsidiary had improperly modified the machine by installing the open hopper, which permitted access into the pressing chamber while the machine was cycling. Plaintiff argued that because the operator's control panel was within arm's reach of the compression chamber, the subsidiary knew that workers would attempt to operate the machine by manually feeding meat into the open hopper.

Defendants argued that (1) the hopper was positioned high enough so that an operator was unable to reach down inside it, (2) plaintiff's employer had circumvented certain safety latches so that the machine could operate at a faster pace, and (3) plaintiff's employer had been warned that the machine should not be used in the manual mode after it was converted, or, if it were used, the employer should remove the hopper and reinstall the lid for the compression chamber. Defendants also claimed that plaintiff had disregarded warnings in the instruction manual and instructions from the subsidiary not to attempt to clear a jam until the machine had been locked out and tagged out.

During mediation, the parties structured a settlement for a confidential amount, paid by defendants' insurer.

Plaintiff's experts were Fredric Blum, mechanical engineering, Berwyn, Pa.; Lee Osterman, orthopedics, King of Prussia, Pa.; and Robert P. Wolf, economics, Cherry Hill, N.J.

Defendants' experts were Scott Jaeger, orthopedics, Philadelphia, Pa.; and Roselyn Pierce, vocational rehabilitation, Philadelphia, Pa.

Plaintiff's Counsel

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