

**\$325,000 RECOVERY - PRODUCTS LIABILITY - DEFECTIVELY DESIGNED WOOD SHAPING MACHINE - FAILURE TO PROVIDE SPINDLE GUARD FOR FREEHAND SHAPING - FRACTURE OF INDEX, LONG, RING AND LITTLE FINGERS - LOSS OF FUNCTIONAL USE OF NONDOMINANT LEFT HAND.**

*Berks County*

The plaintiff, a wood worker, alleged that the defendant manufacturer designed and constructed a defective wood shaping machine in that it lacked a spindle ring guard to prevent injuries when the machine was set up for freehand shaping. The plaintiff sustained a severe hand injury while working on the machine at his place of employment. The defendant argued that the machine was not defective and was being improperly used by the plaintiff at the time of the accident.

The plaintiff was using a wood shaper manufactured by the defendant. The machine was set up to perform a freehand shaping operation. This required the removal of several manufacturer-supplied safety devices such as the spindle guard for straight feed shaping, the alignment fence and hold down springs. The plaintiff was attempting to shape a curved piece of molding by using a template that he had clamped to the shaper table. While moving the curved wood through the spindle, the piece of wood kicked back toward the plaintiff so that the molding was thrown back away from the machine. When this occurred, the plaintiff's left hand came in contact with the high-speed cutter head.

The plaintiff's physician reported that the plaintiff sustained fractures of the index, long, ring and little fingers of his nondominant left hand as a result of the accident. The plaintiff underwent surgery during which orthopedic pins were inserted into the index and long fingers to stabilize the fractures. The plaintiff was disabled from work for approximately six months before returning to his prior position. His physician opined that the injury has left the plaintiff with a permanent impairment of his left hand. The plaintiff testified that his left hand could only be used as a helper. The plaintiff claimed a past earning loss in the amount of \$11,564 and medical bills of \$18,529.

The plaintiff's expert engineer opined that the shaper machine was defectively designed because it was not provided with a spindle guard for freehand shaping tasks. The plaintiff alleged that there were several forms of commercially available ring guards and disc guards for spindle heads of shaper machines.

The defendant contended that the plaintiff's accident occurred because it was the end of his work day and he was scheduled to leave for vacation and was rushing to get his work done at the time. The defendant claimed that the wood shaper was being improperly used for an operation

(freehand shaping) that it was not intended nor designed to perform. The defendant asserted that the wood shaper was designed to do only straight shaping and that with all the safety devices originally provided with the machine when it was sold, the spindle was completely safeguarded. The removal of the safety features by the plaintiff's employer was a modification and misuse of the equipment, according to defense arguments. The defense maintained that the machine was not dangerous nor defective and complied with applicable ANSI standards.

The case settled prior to trial for a total of \$325,000.

**REFERENCE**

D'Luzen vs. Defendants. Case no. 3037-9-AD; Judge Albert Stallone, 6-01.

Attorney for plaintiff: Richard M. Jurewicz of Galfand Berger, LLP, in Philadelphia.

**COMMENTARY:**

The evidence revealed that the plaintiff's hand injury occurred at the end of his last day of work before vacation. The defendant was expected to utilize this point to argue that the plaintiff was in a rush to complete his work and was not paying adequate attention to his task. In addition, the defendant would have, no doubt, stressed that safety devices supplied by the manufacturer had been removed by the plaintiff's employer, constituting a modification of the machine. The defendant also contended that the wood shaper complied with ANSI standards. These factors combined to create the possibility of a strong defensive position at trial. On the other hand, the plaintiff was prepared to present evidence that there were several types of spindle guards available which would have prevented the plaintiff's injury and that the defendant failed to provide the guards at issue. The plaintiff contended that the defendant provided a ring guard for shaping machines sold to certain European countries and intended to use this evidence at trial. Although the defense claimed that the machine was being misused, the plaintiff countered that freehand shaping was a use which was expected and foreseeable, given the nature of the machine and its applications. The case was settled at the close of discovery and after it had been listed for trial. □