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DAILY REPORT

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Verdicts & Settlements: \$5M awarded to injured man eager to get back to work

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A HALL COUNTY jury awarded \$5 million to a man who fell some 18 feet from a ladder as he worked on an indoor crane, fracturing his skull on the concrete floor.

Jason Pope's injuries, along with his determination to get back to work despite them, seemed to impress the jury, said attorney David N. Krugler, who represented Pope along with Andrew B. Cash of Atlanta's Cash, Krugler & Fredericks.

"The jury was crying all week," Krugler said upon hearing the Douglas County man's story.

The crane technician and inspector was sent by his employer, Gajjar Engineering Systems Inc. in May 2004 to service two indoor cranes at ATEX Inc., a Gainesville manufacturing plant. According to Krugler and his court filings, Pope, then 28 years old, was being assisted by an ATEX employee as he stood on a ladder placed against a steel gird-



PHOTO BY ZACHARY D. PORTER

David Krugler and Andrew Cash of Cash, Krugler & Fredericks, LLC

er that was part of the crane structure. Krugler said Pope then "asked the assistant tech to hit the button to lower the crane hooks, and the guy hit the wrong button," causing the girder to move.

R. Patrick White of Atlanta's Buckley King, who headed the defense for ATEX, said that he was unable to comment because the case was still being litigated. But according to the ATEX's pre-trial filings, the company assistant tech helping Pope, Eric Vidic, had been steadying the

ladder when Pope asked him to lower the hooks.

"Mr. Vidic stepped away from the ladder to do as Mr. Pope instructed," according to the filing. "As the hooks were being lowered, Mr. Pope began climbing up the ladder," which slipped from beneath him.

Pope suffered "significant permanent damage to his brain," according to the plaintiff's account in the pre-trial order, requiring multiple surgeries and leaving Pope with cognitive difficulties.

“They actually removed part of his skull and kept it in a freezer for a couple of months until the swelling in his brain went down,” said Krugler. Despite his injuries, Krugler said the married father of four had been anxious to get back on the job.

“His last surgery was in July of 2004, and by August he’s begging his neurosurgeon to go back to work,” said Krugler.

“He was actually back part-time within three months,” said Cash, the lead attorney, “and now he’s worked his way back up to where was with his old company.”

Prior to trial, ATEX had offered \$50,000 to settle, said Krugler.

Following a three-day trial before Hall County State Court Judge Charles S. Wynne, said Cash, the jury took 45 minutes to award Pope \$4 million for damages, lost income, pain and suffering, and another \$1 million to his wife, Renee Pope, for loss of consortium.

“The jury said it meant a lot to them that he wanted to get back to work so quickly,” said Krugler.

The case is *Jason Pope et al. v. ATEX Inc.*, No. 05-SV-781D.

The decision to ignore a \$950,000 settlement offer cost a Roswell neurologist and clinic \$8.2 million, the lion’s share of a total \$11.7 million judgement awarded to a young college student left paralyzed after having surgery intended to relieve chronic back pain.

“The neurologist’s attorneys never even responded,” said William S. Stone, lead attorney for 22-year-old Joshua Coleman of Demorest, who was a 19-year-old

Piedmont College student when he underwent spinal surgery in May 2003 at North Fulton Medical Center.

According to case filings and Stone, who tried the case along with partner David W. Boone and four other Boone & Stone lawyers, Dr. Frank Puhlovich and co-defendant North Fulton Neurology were the only remaining defendants in the case. The plaintiff claimed the failure of doctors to remove surgical rods and screws implanted in Coleman’s spine during surgery damaged Coleman’s spinal cord.

Puhlovich, said Stone, failed to inform the surgeon working on Coleman that a monitoring alarm that sounded during the surgery should have been cause for the immediate removal of the devices.

The hospital and surgeon settled prior to trial for a total of \$3.5 million, according to the settlement order, and the anesthesiologist also settled for an undisclosed sum on the day closing arguments were scheduled.

Stone said witnesses for his side included “what I consider world-class experts ? neurologists, anesthesiologists--some of the people who actually write the tests.”

The evidence was clear, he said, that Puhlovich failed to alert the surgeon as to the severity of the problem, and that the devices should have been removed or a “wake-up test” administered to ensure that he had mobility in his lower extremities.

After the alarm sounded, “[Puhlovich] came in and stayed nine minutes and left. He didn’t do

anything but tell the surgeon that it was a real problem, not a technical one.”

As a result, he said, Coleman is paralyzed from the waist down still endures spinal implants that make his life difficult. “He can’t even bend over to tie his shoes,” said Stone.

The trial lasted nine days before Fulton County State Court Judge Diane E. Bessen, said Stone, and the jury took one-and-a-half days to award \$11.7 million to Coleman.

Defense attorney Mary Katherine Greene of Carlock, Copeland, Semler & Stair said the award would be appealed. “This was a difficult case,” she said. “Mr. Coleman is a nice young man with a devastating injury.

“Dr. Puhlovich is a fine neurologist who acted within the standard of care,” said Greene via e-mail, adding that the doctor “responded in a timely fashion to the operating room and made it known that the signals were in fact lost and that Josh Coleman’s spine was at risk. Dr. Puhlovich suggested that the surgical hardware was the cause of the problem.”

The case is *Joshua Coleman v. North Fulton Medical Center et al.*, No. 05EV00092J.

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