

Ironworker injured in 25-foot fall from rooftop



Robert I. Feinberg

Settlement requires insurance company to pay medical bills for life and allows worker to keep all benefits already paid to him. Total value close to \$5 million.

On July 14, 2017, the plaintiff ironworker was carrying a pallet over his head, intending to place it six feet from the edge of the unprotected side of the roof. It was believed that the plaintiff slipped or tripped as he was heading down the eave, causing him to fall approximately 25 feet.

Though he was wearing a harness, the plaintiff was not tied off. Nor was anyone on his crew tied off. The plaintiff contended that there were no anchors affixed to the roof to which he could tie off.

The defendant general contractor contended that the plaintiff, an ironworker for seven years, should have asked to be tied off, as he was well aware of the risk.

The plaintiff established that the general contractor was very experienced and had overseen hundreds of commercial projects. Its sole on-site representative was the most experienced of the company's project superintendents. Yet he conceded that he did not know of the existence of the company safety manual and was unfamiliar with OSHA's provisions for steel erection.

Evidence was expected to show at trial that the defendant company failed to follow the provisions of the American

Action: Negligence and tort

Injuries alleged: Subdural hematoma, subarachnoid hemorrhage, severe elbow fracture, tinnitus, numerous orthopedic fractures and PTSD

Case name: Withheld

Court/case no.: Withheld

Jury and/or judge: N/A (settled)

Amount: \$3.75 million

Date: January 2020

Attorneys: Robert I. Feinberg and John B. Johnson, of Feinberg & Alban, Boston (for the plaintiff)

Institute of Architects' contract between the project owner and the general contractor.

The superintendent admitted that he was never on the roof. He also admitted to taking numerous photographs that were clearly taken from an elevated surface. The accident occurred seven weeks after the roofing work began.

Furthermore, the project superintendent could cite only one conversation with the foreman of the steel erection crew regarding fall protection. Even that conversation was significantly in doubt, because the foreman initially testified in his deposition that he could remember no such conversation.

The case resolved shortly after mediation. As part of the settlement, Attorney Feinberg negotiated a complete waiver of the worker's compensation lien, worth \$375,000, and arranged for the insurance company to pay medical bills for the client's life without any contribution from him in what is called a waiver of the Hunter offset. Thus, the total settlement has a value close to \$5 million.