

Jury: Oil Sprayed on Floor Led to Ladder Mishap

Delay Damages Expected To Push Award to \$1 Mil.

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A fire-alarm installer whose ladder slipped out from under him was awarded more than \$700,000 by a Philadelphia jury, attorney Gavin P. Lentz said yesterday.

The award is expected to top \$1 million when delay damages are figured in, said Lentz of Bochetto & Lentz, who represented the plaintiffs, Thomas and Mary Schaller.

In December 1991, Thomas Schaller was performing a fire-alarm installation in a room containing an electric generator atop The Philadelphian condominium on Pennsylvania Avenue in the city, Lentz said.

The room was occupied by the EPC Corp., which ran the generator to supply electricity to the building.

With The Philadelphian settling in the

case, EPC was the remaining defendant.

The generator was leaking oil, which covered the floor of the room. The generator was not turned off in favor of buying electric from the PECO Energy Co. grid, Lentz said, forcing Schaller to use a ladder on an oil-laden floor.

The ladder slipped out from under Schaller and shattered his left arm, which became caught in it.

After what Lentz said was a day and one-half of deliberation, jurors reported a unanimous verdict of \$700,000 for Thomas Schaller's wage loss, other economic damages and pain and suffering. Mary Schaller was awarded a \$50,000 verdict on her loss of consortium claim.

Jurors said that EPC was 80 percent responsible for Schaller's injuries and the apartment building owners 20 percent to blame, Lentz said.

Thomas Schaller's left arm injury is of greater consequence to him because he has one eye as the result of a childhood accident. Since Schaller uses only his left eye, he is left-arm dominant, Lentz explained.

Schaller sustained traumatic arthritis from the injury, as well as broken ribs and a rotator cuff injury, Lentz said.

The shattered forearm required three surgeries to restore 75 percent use, Lentz said. Due to the loss of use, Schaller was unable to continue to do highly-paid work installing alarm systems. He was retrained for lower-paid desk work. Schaller also suffered permanent scarring.

The verdict came after a one-week trial before Judge Paul Ribner. Lentz said that while informal talks were held between the parties, no formal settlement offer was ever tendered in more than three years of litigation.

A settlement master in the Day Backward program, according to Lentz, had valued the case at about \$350,000, but there were no indications that the defense side was prepared to offer more than \$50,000, he explained.

Lentz said that he had to prove that the massive, 10-foot by 30-foot engine, which had a 220-gallon oil tank, actually spewed oil on the floor of the generator room, as the defense denied that the ladder had to

be placed on an oiled floor.

"Pictures of the engine show there were rags and socks stuffed in plug leaks," Lentz said. In addition were cooling fans in the room that to spread the oil.

The defense, Lentz said, also say that Schaller was to blame for the ladder on a slippery floor. Schaller hurt on the third day that he was in the generator room. But before the accident, he used A-frame ladders which are more stable than the ladder that slipped out from under him.

"Our client didn't see the rust from the fans, so he could not know there was something wrong with placing the ladder on the floor," Lentz said.

"Their expert admitted that the feet on the bottom of the ladder were the highest known friction coefficient," Lentz said. "Absent the oily floor, he would not have slipped. It was as if it had been intentionally pulled from under the client."

Defense counsel in the case was Ianelli of Harris & Silverman.