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DAILY BUSINESS REVIEW

VERDICTS & SETTLEMENTS

Jury awards workers \$3.6 million, finds subcontractor negligent

Case: Gustavo A. Garcia and Jorge Mejia v. George's Crane Service Inc., Gregorio Gonzalez, RC Construction & Investments Inc., and Florida Erectors.

Case nos: 06-27692 and 06-27690

Description: Workplace negligence

Filing date: Dec. 21, 2006

Trial date: May 18-29, 2009

Verdict amount: \$3.6 million

Settlement amounts: \$2.4 million

Judges: Miami-Dade Circuit Judges Mark King Leban, who handled the settlement and trial, and Ivan Fernandez, who was originally assigned the case.

Plaintiff attorneys: Brett Panter and David Sampedro, Panter Panter & Sampedro, Miami

Defense attorneys: Francisco Angones, Angones McClure & Garcia, Miami; Arthur Cohen, Arthur Cohen P.A., Pembroke Pines

Details: Gustavo Garcia and Jorge Mejia were working as temporary employees at a Miami construction site at 2157 NW 18th Terrace, helping a crane operator as a crane lifted large concrete beams to be used on an apartment building in December 2006.

The operator allowed the cable on his crane to come in contact with an electrical line, shocking Mejia and Garcia. Mejia was knocked unconscious, had a heart attack and suffers memory loss. Garcia lost his right arm and the use of two fingers on his left hand. They sued George's Crane Service, which owned and operated the crane; RC Construction, the general contractor; Gonzalez, who owned the site at Northwest 22nd Avenue and 18th Terrace; and subcontractor Florida Erectors, which hired George's Crane.

George's Crane and RC Construction settled, and Gonzalez won summary judgment against both plaintiffs in March. Florida Erectors won summary judgment against Mejia after he pursued a worker's compensation claim.

Garcia's claim proceeded to trial against Florida Erectors.

Plaintiff case: Panter and Sampedro argued Florida Erectors failed to properly supervise the crane's operation, failed to provide a safe working environment, failed to establish a safe system for operating the crane, failed to warn Garcia of the dangers involved, failed to hire safe subcontractors, failed to provide Garcia with adequate tools and failed to properly train its employees. The complaint included a single count against Florida Erectors for negligence.

Defense case: At the trial in May, Angones argued George's Crane as the crane operator's employer was responsible for the accident and not Florida Erectors. He had no further comment.



A.M. HOLT

Brett Panter and David Sampedro represented the workers.

Outcomes: The jury deliberated for six and a half hours before finding negligence by Florida Erectors in the two-week trial. The panel returned a verdict of \$3.6 million.

Under settlements reached in March, Garcia received \$2.1 million. George's Crane paid \$1.65 million and RC Construction paid \$450,000.

Both companies paid a combined \$300,000 to Mejia.

Comments: "You can't equate any type of verdict, regardless of its size, to losing a part of your body, it's certainly not going to equate the pain and suffering and the loss that he went through," Sampedro said. "The verdict reinforces that notion that everyone at a construction site has an obligation to provide those who work there with the tools to safely complete the task that's assigned."

Post-settlement: Florida Erectors has filed a motion for a new trial. The parties also are in the process of resolving a declaratory judgment action filed by First Commercial Insurance, which insured Florida Erectors, to determine whether Florida Erectors is covered under a \$1 million liability insurance policy. The outcome of the action could affect the collectability of the award.

— Billy Shields