

# 599K settlement reached in falling death

By: Heath Hamacher April 22, 2015

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The estate of a 31-year-old man killed when the scissor lift on which he was working was struck by an overhead crane, causing him to fall 28 feet to his death, has settled with the unnamed defendant for \$599,500.

Many of the case's details are confidential, according to plaintiff's attorney T. Shawn Howard of Maginnis Law in Raleigh, but the lawsuit was filed by the decedent's father and was litigated for more than two years.

According to Howard, the man was working for an electrical contractor as an electrician's helper and had been contracted by a manufacturer to run electricity to a new piece of machinery at one of its facilities. This process, Howard said, required the man to work on the elevated lift while tying metal conduit to the facility's roof.

During the third day of the project, Howard said, the man was on the scissor lift when it was toppled by the crane's impact. The man was thrown onto a glass-cutting table and struck his head, knocking him unconscious.

He never regained consciousness and died in the ambulance before it left the facility, Howard said.

According to the plaintiff, the crane operator used a remote-controlled pendant to operate the crane, despite having "visual obstructions" that prevented him from seeing the crane's entire path.

"Depositions also showed that there had been only minimal coordination of activities between the glass manufacturer and Decedent's own employer and that the construction work had not been isolated in anyway [sic]," Howard wrote in a statement.

The man's employer and direct supervisor, Howard said, each testified that the man disregarded their orders to place the scissor lift slightly outside of the crane's path and that the work was supposed to have been done during lunch, when the crane would have been turned off.

Further, the defendants argued that the man was contributorily negligent because the crane was "...slow, painted yellow for visibility, and had a warning siren that Decedent should have heard..." according to Howard.

The plaintiff contended that the man was where he was supposed to be and that his employer's and supervisor's testimony was self-serving because the incident led to an OSHA investigation for possible safety violations.

Howard wrote in an email that despite numerous liability hurdles, he believed the case was able to be settled because of a video shown at mediation in which the man's two eldest children spoke fondly of their memories of their father.

"It was clear to us that although they had not suffered the kind of economic loss you sometimes see in a wrongful death case involving a parent, they had truly suffered a deep emotional loss," Howard said.

Howard said the net settlement proceeds were placed into structured settlements for each of the man's three children.

## SETTLEMENT REPORT

Wrongful death

Injuries alleged: Death by blunt force trauma

Case name: Confidential

Case number: Confidential

Court: Confidential

Date: Feb. 6

Amount: \$599,500

Highest offer: No offers prior to mediation

Most helpful experts: Michael Sutton, accident reconstruction engineer, and Albert Weaver, occupational safety and health expert

Attorneys for plaintiff: Edward Maginnis and T. Shawn Howard, Maginnis Law, Raleigh

Has the plaintiff been successful in collecting the settlement? Yes