

Plant worker falls in hasty escape from extreme heat

Factory brings third-party claim against contractor

\$450,000 settlement

In July 2013, the plaintiff, 60, was involved in a work-site accident at an energy plant. The plant had hired the plaintiff's employer, an industrial cleaning company, to clean an extremely hot and confined space within the plant.

At the time the plant allowed the cleaning company to commence work, the temperature at the top of the worksite was above 170. The plant provided the cleaning company with an electronic lift to ascend the work site and told the plaintiff to go as high as he could.

Late in the afternoon, the plaintiff entered the work site with a co-worker to continue the cleaning work. Using the lift, they ascended the space and conducted the cleaning work. When the heat became too intense, the plaintiff asked his co-worker to lower the lift. As they lowered themselves down, the lift malfunctioned and would not descend. The plaintiff was about 15 to 20 feet high and suffering extreme heat stress such that he thought he was going to die.

In order to escape the heat, the plaintiff climbed over the railing of the lift to try to lower himself to the ground while gripping his fall protection harness and ropes. As he did, his grip slipped and he fell about 12 to 15 feet, severely fracturing his right ankle. A short time later, his co-worker was



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able to lower the lift by pouring water on the motor.

As a result of his fall, the plaintiff suffered a broken right ankle and a torn medial meniscus in his right knee. He underwent operations on both areas. Surgeons placed a plate and six screws in his ankle and arthroscopically repaired his meniscus tear. The plaintiff also developed lower- and upper-back pain.

The plaintiff eventually was able to walk without assistance, but was unable to continue working for the industrial cleaning company.

Suit was brought against the plant, which in turn brought a third-party claim against the cleaning company pursuant to an indemnification agreement. The plaintiff alleged he was not informed of the extreme temperature and that measures to cool the worksite were insufficient. He also alleged that the plant negligently maintained the

lift, causing it to malfunction.

The plant denied liability, claiming that it did not control the work of the cleaning company and that the plaintiff was comparatively negligent for ascending an area he knew was hot and for panicking and climbing down a rope rather than waiting for assistance. The case was resolved at mediation.

Action: Negligence & tort

Injuries alleged: Broken ankle, torn meniscus

Case name: Withheld

Court/case no.: Withheld

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

Amount: \$450,000

Date: Dec. 12, 2014

Attorneys: Jeffrey N. Catalano, Eric Asquith and Christine R. Thompson of Todd & Weld, Boston (for the plaintiff)



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