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## Man Dies After Being Trapped In Skid Loader – Defense Claimed Loader Was Damaged

By: MO Lawyers Media Staff | September 4, 2000

\$6 Million Settlement

Plaintiff Tracy Hill drove a skid steer loader for Smurfit Corp., a recycling company. In March 1997, as he was getting out of a 1988 1845C uni-loader with the engine running, he raised the operator lockout bars that were intended to immobilize the machine's power train and loader bucket system.

The plaintiffs claimed the system failed. As he exited the machine, his leg bumped the loader-up control on the left-hand joystick, causing him to become pinned between the loader arm and the overhang of the Rollover Protection System. He died 18 months after the accident. There were no witnesses to the accident. Hill was found entrapped and unconscious.

His parents, wife and three children brought a products liability action against Case Corporation, the manufacturer, for the failure to design out a known hazard in the lock bar system. Claims against Machine Maintenance, Inc., the dealer, were based on negligent service of the loader.

The defense claimed Hill was at fault for failing to turn the engine off before exiting as explained in the operator's manual and warning labels inside the operator's compartment. The defense also claimed the loader had been badly damaged and was not in the same condition as when Case put it into the stream of commerce.

Two mediations were conducted by Judge Richard Ralston.

At a second mediation, Case's \$4.75 million offer was accepted and Machine Maintenance, Inc.'s offer of \$250,000 was rejected. After depositions of the plaintiffs' expert and Machine Maintenance, Inc.'s corporate representatives, Machine Maintenance, Inc.'s offer of \$1.25 million was accepted by the family.

**Type of Action:** Products liability, negligence

**Type of Injuries:** Crush injury to upper torso region resulting in anoxic encephalopathy, semi-vegetative state for 18 months until death

**Court/Case Number/Date:** St. Louis City Circuit Court/982-08787/Aug. 9, 2000

**Caption:** Alexander, et al. v. Case Corporation, et al.

**Judge, Jury or ADR:** ADR

**Name of Judge:** Margaret M. Neill

**Special Damages Claimed:** \$1.8 million medical expense; \$1.7 million lost wages

**Verdict or Settlement:** \$6 million settlement; \$4.75 million from manufacturer Case Corporation; \$1.25 million from dealer Machine Maintenance, Inc.

**Allocation of Fault:** N/A

**Last Offer:** N/A

**Last Demand:** N/A

**Attorneys for Plaintiff:** Daniel T. DeFeo and Timothy Monsees, Kansas City; James Fox and Ken Vuylsteke, St. Louis; William Clark, Webster Groves

**Insurance Carrier:** Federated Mutual Insurance Company (for Machine Maintenance, Inc.); self-insured (for Case)

**Plaintiff's Experts:** Gary Carter, Peculiar (maintenance); Dr. Richard T. Katz, St. Louis (neurologist); H. Boulter Kelsey, St. Louis (maintenance); Dr. Robert Margolis, St. Louis (neurologist); Gerard L. Miller, Kansas City (economist); John Severt, Wichita, Kan. (engineer); Richard Ziernicki, Englewood, Colo. (engineer)

**Defendant's Experts:** None identified

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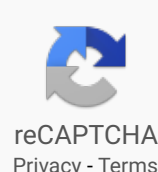


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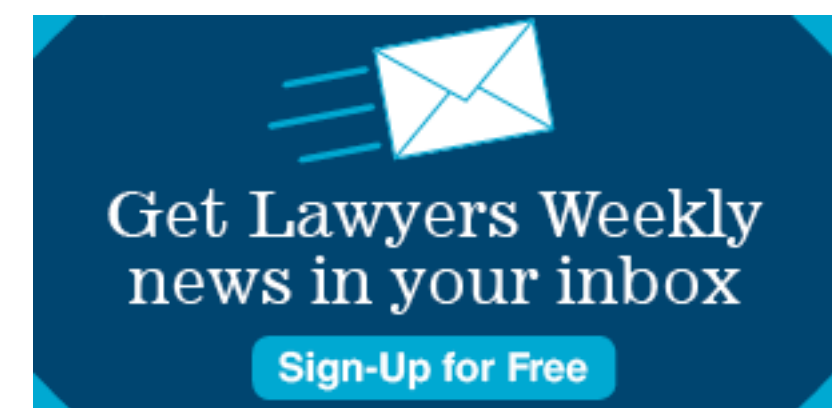
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