

Products Liability Products Liability – Severe Burns To Neck And Chest

By: MO Lawyers Media Staff January 1, 1996

\$395,000 Settlement

Type of Action: Products liability

Type of Injuries: Burns to neck and upper chest; carotid artery injury requiring prosthesis; scarring; loss of range of motion

Court/Case Number/Date: Jackson County Circuit Court/CV94-15993/Oct. 14, 1996

Caption: Perry v. Mannesmann AG, Mannesmann Demag AG, and Mannesmann Demag Corporation, Inc.

ADR Attempts: None

Judge, Jury or ADR: Settled without trial

Name of Judge: Thomas C. Clark

Special Damages Claimed: \$70,000 – \$120,690 past medical expense; at least \$500,000.

Verdict or Settlement: \$395,000 settlement

Attorney for Plaintiff: Daniel T. DeFeo, Kansas City

Attorney for Defendants: Richard J. Zalasky, St. Louis

Insurance Carriers: Allianz Insurance Company; Zurich Insurance Company

Plaintiff's Experts: Dr. Richard Ziernicki, Denver (mechanical engineer); Craig Stomgran, Topeka (safety consultant); Dr. John M. Hiebert, Kansas City (treating reconstructive surgeon); Dr. Gerald R. Miller, Kansas City (forensic economist)

Defendant's Experts: Dr. Robert Pehlke, Ann Arbor, Mich. (casting expert); Raymond Kline, Kansas City (in-house mechanical engineer); Dennis E. Cramer, Sand Springs, Okla. (steel consultant)

Facts of the Case: The plaintiff, a 47-year-old millwright for Armco Steel, sustained severe burns in an industrial accident at Armco's Kansas City plant. He sued the German manufacturer of the withdrawal/straightening machine he was working on at the time of the accident.

In the plant where the plaintiff worked, Armco uses a continuous casting process to produce six strands of steel, each of which is seven inches square and could be hundreds of feet long. These rivers of molten metal pass through the withdrawal/straightening machine, which straightens the molten metal, and then to the torch cutting section, which cuts the strands into billets, typically 20 feet in length.

Plaintiff was replacing a hydraulic cylinder as part of the routine maintenance of the machine when a weld securing a moveable arm on the machine broke. This caused the machine to collapse and the plaintiff was pinned at the throat between the moveable arm and the structure of the torch casting section.

The moveable arm was about 600m F. at the time, and it lay on plaintiff's chest for at least 10 minutes before plaintiff could be extricated. He suffered full thickness burns to his neck and upper chest, underwent several reconstructive surgeries and claimed he lost about one-half million dollars of future income.

Plaintiff contended the machine was defective because it could not achieve "zero mechanical state," a condition in which movement of the machine during maintenance and repair is not possible. He claimed this violated basic machine design principles which have developed since 1900.

Plaintiff also said the machine violated an ANSI standard first published in 1981. The machine was built in 1975, and defendants claimed the ANSI standard did not apply. But plaintiff said the ANSI standard called for retrofitting all existing machines to comply with the new standards within three years.

Defendants denied the machine was unreasonably dangerous. They also said the machine could have achieved zero mechanical state, but the plaintiff failed to comply with written "job safety analysis" standards adopted by the Armco plant, in order to get his job done faster.



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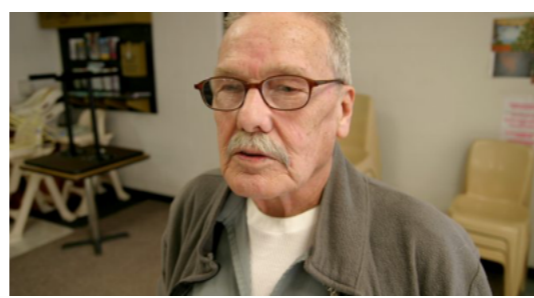
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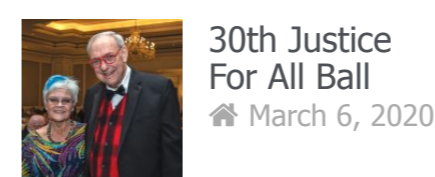
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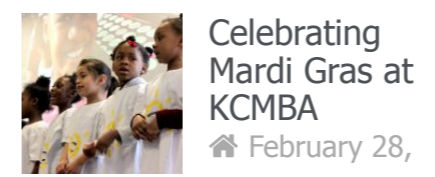
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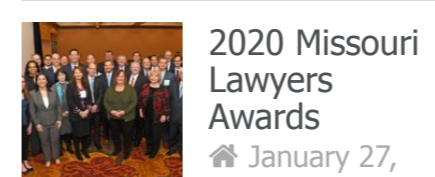
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