

\$42 MILLION

Settlement reached in logging accident that hurt three, killed one

BY PETER VIETH

Victims of an explosion and fire at a Southside Virginia logging site in 2011 have settled product liability claims for a total of \$42 million, lawyers report.

Four workers suffered severe burns when welding machinery exploded in flames as the men sought to repair a wood grinder at a logging site in Greensville County, according to news accounts at the time.

One man died, the other three were left with lasting injuries.

In the wake of the disaster, the victims blamed the makers of a welding machine and a component part of that machine. The manufacturers sharply disputed the plaintiffs' theory, contending the fire was caused by the victims' misguided effort to repair a diesel fuel tank.

Each of the manufacturer defendants carried more than \$350 million in total insurance coverage, plaintiffs' lawyers said. Lawyers took depositions of more than 100 people – including 39 expert witnesses – in 14 states, the District of Columbia and Canada. More than 600 exhibits were used during the depositions.

The case settled after a marathon negotiation session with a high-profile mediator.

Repair of wood chipper

The victims all were members of a logging crew working to harvest pulpwood from a remote site in Greensville County, not far from the North Carolina line. The workers were using a large, \$900,000 Peterson Pacific wood grinder, their lawyers said.

The industrial machine first stripped the bark from logs and then ground up the wood to make clean wood chips, the lawyers explained.

At the end of the work day, loggers tried to use a welding machine to repair a hole in a fuel tank on the wood chipper. The welder would not work, one of the victims told a reporter for The (Franklin) Tidewater News in 2012.

"We were trying to figure out what was wrong," the man said. "The welder had just come back from the shop, but it wouldn't weld. It was running and we were brainstorming, and the welder blew up. It was an instant fireball."

Grievously burned, that man and three others were flown by helicopters to receive medical treatment. One died six days later.

Another miraculously survived. He suffered 95 percent total body surface area full-thickness burns. He lost fingers on both hands, suffered a collapsed lung, brain injury and other injuries. He is con-

finied to a wheelchair and requires permanent home health care, lawyers reported.

Despite his injuries, he married his fiancée after he was released after more than 400 days in medical facilities.

That man's past medical bills were nearly \$10 million. He expected another \$46 million in future medical expenses, his lawyers said. He sued for \$250 million.

Lawsuits in Richmond court

Other multi-million-dollar suits were filed on behalf of the other workers, all in Richmond Circuit Court. The cases were consolidated for discovery under Judge Melvin R. Hughes Jr.

While each plaintiff retained different counsel at the outset, the firm of Allen, Allen, Allen & Allen took the lead on liability issues, said Jason W. Konvicka of the firm.

Other counsel on the plaintiffs' side included Ashley Davis of the Allen firm, Christopher M. Malone and William W. Tunner of Richmond, Charles H. Cuthbert and Richard M. Cuthbert of Petersburg and A. Donald McEachin of Henrico.

The two manufacturer defendants were represented by attorneys from Colorado, Chicago, Los Angeles as well as Virginia.

Experts clashed over the cause and origin of the "inferno" that engulfed the victims and destroyed the machinery involved.

At the Allen firm, "We were in charge of trying to establish these two products were defectively designed," Konvicka said.

While the one eyewitness who was able to talk about the incident said the explosion originated with the target welding equipment, defense experts contended the man's memory could be unreliable because of the trauma and the medical treatment that followed.

The defendants also said their equipment was well-designed and had no record of other fires or explosions. The manufacturers said it was not their product that exploded. Instead, they blamed the fireball on use of the equipment to service a diesel fuel tank that still had some fuel in it.

"The defendants left no stone unturned. They left no issue unaddressed. They had gold standard experts," said Richmond lawyer P. Christopher Guedri, another of the plaintiffs' attorneys.

Costs advanced by the plaintiffs' law firms exceeded \$2 million, lawyers said. The plaintiffs reportedly had five cause-and-origin experts, with defense experts opposing their views.

Mediation

The parties hired mediator Antonio Piazza of San Francisco and Hawaii to come to Richmond for nego-

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– Victim of 2011 logging site explosion and fire

tiations. The plaintiffs were unable to travel by air, lawyers said.

Piazza gained fame by resolving – at least temporarily – a dispute over the original concept for the Facebook social media site.

For the Virginia mediation, lawyers borrowed offices from the firm of Williams Mullen. The session was scheduled for a single day in February. More than 50 people attended, with different interest groups represented.

Among those present were representatives of workers' compensation insurance companies. For the most severely injured worker, the workers' comp lien was \$10 million and care was still ongoing.

The mediation session lasted from 9:30 a.m. on a Friday until 1:30 a.m. that night, and the final deal was not struck until the following Monday, the lawyers reported.

Guedri said the settlement included a guarantee that workers' comp lifetime medical benefits remain in place for the man most badly hurt, with added cash for other needs.

The most severely injured victim will receive \$24,360,000; the next plaintiff is paid \$10,080,000 and \$3,360,000 is allocated for the remaining two plaintiffs, including beneficiaries of the man who died.

Court records indicate another defendant, a company that serviced the welding equipment, also paid to settle claims arising from the incident. Arcet Equipment Co. Inc. of Richmond settled the wrongful death case for \$1,129,026.64, according to court records.



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