Frost Brown Todd Wins Defense Verdict for Terex

Apr 28, 2011

Categories:

Experience

August 2010 (Indianapolis, IN) – After deliberating for just one hour, a Hamilton County Superior Court jury returned a unanimous verdict for Terex in a quadriplegia case. Terex was represented by co-trial counsel Frost Brown Todd, Kevin C. Schiferl and Robert B. Thornburg, and Weinberg Wheeler Hudgins Gunn & Dial, LLC, Earl W. "Billy" Gunn, Frederick N. Sager, Jr. and Mark R. Johnson.

On August 25, 1997, Plaintiff Anthony Wade, a lineman for Richmond Power & Light (RPL), climbed into a bucket, manufactured by Terex, and raised the aerial device so he could hook up temporary power on a utility pole. Mr. Wade then returned the bucket to the cradle position. While attempting to exit the bucket over the front wall, Mr. Wade reached for the outside step on the bucket with his right foot, lost his balance and fell to the ground. He struck the ground on the right side of his face and, as a result of his fall, suffered a C5-C6 subluxation and a fracture at the C5 level. Mr. Wade was paralyzed as a result of the fall.

Plaintiff claimed that the aerial bucket had a design defect by failing to have an inside step which would be available for use in exiting the bucket, and further alleged that the access system on the bucket truck, including the placement of the handholds, was negligently designed. Plaintiff also contended that RPL should have been presented with an option of purchasing the bucket truck with an inside step for the bucket. Plaintiff had sought multiple millions of dollars.

The defense focused on the fact that the bucket and aerial device met all applicable industry standards and had been safely used by the industry for thirty years. Terex challenged the methodology of plaintiff's bucket expert, and also focused on the training and instruction provided to plaintiff by his employer.

This case was originally tried last year in Shelbyville, Indiana but ended in a mistrial as a result of a hung jury. The case subsequently was assigned to Judge William Hughes in Hamilton Superior Court in

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