

# Ironworker falls through shielding on bridge project

## \$5 million settlement

Published: 7:23 pm Thu, February 24, 2011

By Mass. Lawyers Weekly Staff

The plaintiff, a 61-year-old ironworker, fell 22 feet to the roadway from a shielded section of a bridge construction site. He had been bolting and connecting steel girders on the bridge and had disconnected his fall protection equipment before going on break.

The defendant general contractor had installed the shielding, upon which the plaintiff intended to walk to exit the bridge. The shielding consisted of wood planks placed between the girders and appeared to the plaintiff to be a safe walking surface. He crossed the shielding toward the end of the bridge before falling through an unfinished portion.

The defendant claimed that the opening in the shielding was open and obvious, that the plaintiff violated the “100-percent tie-off” safety policy in effect on the job, and that he had been instructed on that policy at a safety meeting at the beginning of the shift.

The policy required fall protection to be used at all times while on the bridge, and the plaintiff signed paperwork at the conclusion of the meeting confirming that he understood the policy.

The defendant further relied on the testimony of a co-worker that the plaintiff ignored a direct verbal warning to reconnect his safety harness lanyard to the safety line shortly before the accident occurred. The defendant claimed that the plaintiff’s negligence in failing to stay connected to the fall protection line was the sole cause of the accident.

The plaintiff maintained that the defendant created a hazardous condition by installing the shielding and failing to properly guard or warn of the opening toward the end of the bridge.

The plaintiff’s experts, who included a former national chief enforcement officer of OSHA, opined that OSHA regulations require guarding and warnings for openings such as the one in the shielding, and that fall protection systems could not be allowed to negate the need for the primary method of protecting workers — guarding the hole — to eliminate the hazard.

Dozens of depositions of witnesses were taken, and evidence was developed to support the claim that the defendant’s internal safety policies were violated.

Prior to expert witness depositions, the parties mediated the case and settlement negotiations continued after mediation.

Action: Negligence & tort

Injuries alleged: Paraplegia

Case name: Withheld

Court/case no.: Middlesex Superior Court (no. withheld)

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

Amount: \$5 million

Date: January 2011

Attorneys: Douglas K. Sheff and Stephen J. Chiasson, Sheff Law Offices, Boston (for the plaintiff)