

\$750,000 Settlement for Workplace Product Liability Injury



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Rega v. Terminal Construction, et al.: A commercial painter who severely injured his wrist when he fell 13 feet off a faulty ladder reached a \$750,000 settlement last Wednesday with the ladder's manufacturer.

The settlement came two days after summations in a bench trial before Bergen County Superior Court Judge Lawrence Smith.

According to the plaintiff's lawyer, David Mazie, a partner in a Livingston law firm, the accident occurred on June 20, 1991, when Joseph Rega and two co-workers were painting the inside of a concrete holding tank at the Morristown Sewage Treatment Plant. The only access in and out of the tank was by way of a ladder made by Terminal Construction Co.

At the end of the day, Rega was climbing out of the tank with a can of paint when the ladder slipped out from under him, sending him 13 feet to the bottom of the tank. He severely fractured his left wrist and hand from the fall. His injuries required eight surgeries. The hand and wrist had to be fused together, according to Mazie.

Mazie argued Terminal was negligent because the ladder did not have either the slip-resistant safety devices or the tie-off rope required by ASHI and OSHA guidelines. James Horan, a partner with West Orange's Minichino & Mautone who represented Terminal for its carrier, USF&G, contended that Rega was comparatively negligent.

Mazie says Smith probably could not have considered comparative negligence, in view of the state Supreme Court's holding in *Super v. San Antonio Foundry & Machine Co.*, 81 N.J. 151 (1979). That case drastically limited comparative negligence in product liability suits by employees injured in the workplace.

During the trial, Rega's employer, Goya Construction, agreed to pay 37.5 percent of the settlement.

-- By Matt Ackermann