

Construction worker's 40-foot fall proves fatal

\$12 million settlement

Published: January 29, 2021

A 48-year-old apprentice framer, who was wearing a harness but was not tied off, fell 40 feet from an unprotected edge while attempting to install a pre-fabricated wall at a project in East Boston. He suffered fatal injuries.

The decedent's employer had been hired by a middle-tier subcontractor (the defendant) to install the pre-fabricated wall panels at the project.

During the three months the project proceeded prior to the fatal incident, the defendant and its subcontractor were warned about safety violations, including fall protection issues, on a regular and continuing basis. The general contractor had previously issued five notices to comply, noting daily safety violations, but failed to follow through on its contractual right to either terminate its subcontractor or to bring in an outside third-party safety supervisor, which it had determined was necessary approximately 17 days prior to the fatal incident.

The plaintiff was able to show that the decedent had not completed his OSHA 10 course or training for a "controlled access zone," which were both requirements to work on the jobsite.

Plaintiff's counsel was greatly aided by the use of video depositions. The plaintiff argued that the case represented a perfect example of conduct that could open the defendant to the likelihood of punitive damages.

Similarly, plaintiff's counsel utilized focus groups to help develop the case, including both liability and damages. Video clips from those focus groups were critical in establishing the high value a jury would award the plaintiff in the event of a jury trial.

The plaintiff's Chapter 176D/93A bad faith claims against the defendant's primary insurer and the plaintiff's claims against the general contractor remain unresolved.

Action: Negligence and tort

Injuries alleged: Death

Case name: Estate of Luis Rodriguez v. Turn Key Lumber, Inc., et al.

Court/case no.: Worcester Superior Court/ No. 1885CV01113

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

Name of mediator: Paul Finn, CMCI

Most helpful experts: Todd Goldberg, Northstar Litigation Technologies (media management and consulting); Total Trial Solutions (focus groups)

Special damages: Lost future earnings of \$2 million, not including union benefits

Amount: \$12 million

Date: Nov. 20, 2020

Attorneys: Richard J. Sullivan and Thomas P. Kelley, of Sullivan & Sullivan, Wellesley; Jeffrey Steinberg of Law Office of Jeffrey Steinberg, Framingham (for the plaintiff)

Detailed Information

Type: Settlement
Total Value: \$12,000,000.00
Verdict/Settlement Date: 11/20/2020
Type of Action: Negligence & Tort
Court: Worcester Superior Court (MA)
Case Number: No. 1885CV01113
Caption: *Estate of Luis Rodriguez v. Turn Key Lumber, Inc., et al.*
Plaintiff(s) v. **Defendants(s)**
Estate of Luis Rodriguez Turn Key Lumber, Inc., et al.
Injuries Alleged: Death
Special Damages: Lost future earnings of \$2 million, not including union benefits
Tried Before: Mediation
Judge or Mediator or Arbitrator: Not Specified

Attorney(s) for Plaintiff(s)

Lead Attorney: Richard J. Sullivan
Firm: Sullivan & Sullivan (Wellesley, Massachusetts)

Other Attorney: Thomas P. Kelley
Firm: Sullivan & Sullivan (Wellesley, Massachusetts)

Other Attorney: Jeffrey Steinberg
Firm: Law Office of Jeffrey Steinberg (Framingham, Massachusetts)

Attorney(s) for Defendant(s)

No defendant attorneys

Insurance Carrier(s)

No insurance companies involved

Plaintiff(s) Expert(s)

No plaintiff experts

Defendant(s) Expert(s)

No defendant experts