

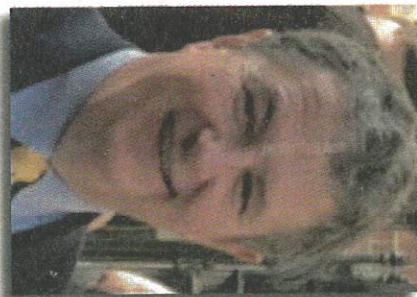
4 \$16 million

Case name withheld

Richard J. Sullivan and Thomas P. Kelley, Sullivan & Sullivan, Wellesley; Jeffrey Steinberg, Law Office of Jeffrey Steinberg, Framingham; John T. Martin, Keches Law Group, Worcester



TOP Settlements 2023



RICHARD J. SULLIVAN



JEFFREY STEINBERG

The family of an apprentice framer who fell to his death at a construction site reached a \$16 million settlement the evening before closing arguments in the trial, thanks to Richard J. Sullivan and Thomas P. Kelley of Sullivan & Sullivan, Jeffrey Steinberg of the Law Office of Jeffrey Steinberg, and John T. Martin of Keches Law Group.

While working at a construction project in East Boston, an apprentice framer who was not tied off fell from an unprotected edge and suffered fatal injuries. Discovery proved that the mid-tier subcontractor hired by the general contractor repeatedly violated safety rules on the project, consistently exposing employees to fall hazards for weeks. The general contractor also violated its contractual obligations by allowing the subs to violate the safety policies and by failing to utilize its powers under its graduated discipline policy.

Late discovery revealed that an outside safety consultant had warned the general contractor that the workers onsite were not trained. The general contractor was advised to shut down the project before someone was hurt. Six days later, the apprentice framer died.

The general contractor also had a rule requiring every worker on site to have an OSHA 10 card, but the decedent had been allowed to work on the project for almost three weeks without one. He was scheduled to attend an OSHA 10 training three days after his death.

At trial, the general contractor's vice president testified

that the company did not know the sub's workers were not properly trained and denied that the safety consultant had issued the warning.

A settlement with the subcontractors for \$12 million allowed the plaintiff to focus on the suit against the general contractor and head to trial, Sullivan said, calling it "a case that cried out for a finding of gross negligence and punitive damages."

After eight days of trial – at the beginning of which the maximum settlement offer was \$2.25 million – the case against the general contractor settled for \$16 million.

The case faced some significant hurdles, from the multiple defendants originally involved to its timing: the complaint was filed in 2019, leading to discovery at the height of the COVID-19 pandemic. Despite the switch to working from home and Zoom depositions, "we didn't miss a beat and were able to get a lot of work done in 2020," Kelley recalls.

During trial, the plaintiff introduced evidence that the general contractor had earned approximately \$90 million in revenue in the years before the incident. On the stand, however, the president of the general contractor claimed that yielded only \$150,000 in net profits.

"You could hear the jury rolling their eyes at that," Kelley says.

"At the end of the day, the actions by the general contractor were so horrific, that's what drove the value of this case," Sullivan says. **MLW**



THOMAS P. KELLEY



JOHN T. MARTIN