

JULY 2013

MULTNOMAH COUNTY

ZEFERINO VASQUEZ v. DOUBLE PRESS MFG., INC.,

Number: 1103-02844

Trial Date: 6/10/13 (2-week trial)

Plff Atty: Gregory Kafoury, Mark McDougal, Jason Kafoury & Natalie McDougal of Kafoury & McDougal (Portland)

Def. Atty: Elizabeth Lampson & John Knowles of Davis Rothwell Earle & Xochihua (Portland)

Plff Med.: Jeffrey Johnson MD (Neurosurgeon) Portland

Def. Med.: Franklin Wong MD (Physiatrist) Portland

Plff Exp.: Richard Gill Ph.D. (Human Factors) Spokane WA; Michele Nielsen RN (Life Care Planner) West Linn

Def. Exp.: Keith Cronrath (Mechanical Engineer) Eugene; Mark Lawless (Safety) Seattle WA

Trial Judge: Hon. David Rees

PRODUCT LIABILITY; NEGLIGENCE

PARAPLEGIA

3/31/10 - Plff, male age 21, agricultural worker. The Def. has been engaged in the business of manufacturing and selling agricultural machinery, including a hay bale slicing machine. In approximately September 2009, the Def. sold to and installed a hay bale slicing machine at OR PAC Feed & Forage LTD, Plff's employer. On the day of the incident, Plff was at work, when material got caught in the hay bale slicing machine. While removing the material, Plff was struck by a ram and was pinned and crushed into the framework of the machinery. Prior to the sale and delivery of the hay bale slicing machine to Plff's employer, the Def. had sold and delivered a hay press to Anderson Hay & Grain Co., whose employee had had both of his arms sheared off by the compressor's hydraulic ram in 2006. Plff introduced evidence that prior to the incident in 2006, there were five (5) additional serious accidents involving the Def.'s machines while operating in automatic mode. Plff contended the Def. was aware of the risk of catastrophic injury from the design of its machines, but continued to manufacture and design the machines without safeguards against such catastrophic injuries. Plff admitted his negligence in assuming the machine was in manual mode rather than automatic mode, however, Plff claimed the Def. was negligent in designing and manufacturing a machine without a mechanism to automatically shut down the

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CONT'D

Facts Cont'd: machine when a person came within the framework of the machine and/or the pinch-points within the framework; in designing and manufacturing a machine without guarding or fencing to prevent entry into the framework; and in designing and manufacturing a potentially lethal pinch-point which was unnecessary to the operation of the machine. The Def. denied any negligence. At the time of Plff's injury, the pinch-point on the machine was at 1". After Plff's injury, the pinch-point on the machine was changed to 13". Plff brought this action against the Def. for product liability and negligence, however, the case proceeded to trial on Plff's negligence claim only.

Injuries: Paraplegia. Plff suffered a crushed pelvis, catastrophic spinal injuries, and severe internal injuries resulting in paralysis.

Specials: Med. \$663,608 (past), \$2,963,410 (futures); Lost Wages - Plff did not pursue a wage loss claim.

Result: PLAINTIFF VERDICT for \$10,331,817 Less Contributory Negligence of 40% = \$6,199,091 net.