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MAN TO GET \$ 3.1 MILLION FOR INJURIES - JURY FINDS MANUFACTURER, CITY OF VIRGINIA NEGLIGENT IN LINEMAN'S ON-THE-JOB ACCIDENT

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A former Marine helicopter gunner who served in the Persian Gulf War has been awarded \$ 3.1 million by a St. Louis County jury for injuries he received after falling out of an aerial lift truck while working on power lines for the city of Virginia.

Daniel P. Rebrovich, 33, of Hibbing, sued ABM Equipment & Supply of Hopkins, Minn.; Time Manufacturing Co. of Waco, Texas; and the city of Virginia after falling about 4 feet while dismounting from the lift bucket and tearing ligaments in his right knee, leading to three extensive reconstructive surgeries.

The four-woman, three-man jury reached the verdict Friday evening after a weeklong trial in Hibbing. The panel found ABM, which installed the aerial lift and bucket on a Ford truck, 75 percent negligent, and Rebrovich's employer, the city of Virginia, 25 percent negligent. Rebrovich was awarded \$3,157,026.

Time Manufacturing, which manufactured the aerial lift and bucket, was not found negligent.

The accident occurred on June 27, 1999, while Rebrovich was completing a 10-hour Sunday work shift as a journeyman lineman and trying to exit an aerial lift, also known as a cherry-picker, to get onto the bed of the truck.

Rebrovich was awarded: \$1.5 million for loss of future earnings, \$450,000 for past pain, suffering and emotional distress, \$400,000 for future medical expenses, \$300,000 for future pain, \$169,026 for past medical expenses, and \$138,000 for past loss of wages.

His wife, Sharon, received \$100,000 for past loss of company and affection of her husband and \$100,000 for future loss of the same.

Rebrovich contended that the defendants were negligent in the designing, testing, manufacturing, sale, distribution, maintenance, warnings and instructions given concerning the aerial lift truck. Rebrovich also contended that the product was defectively designed, presenting serious problems for people dismounting from the aerial lift bucket.

"There was no place to put your feet, inadequate foot space, inadequate hand holds, no consideration for the operator's safety getting in and out of the bucket," Rebrovich said by phone from his home on Monday.

Rebrovich was represented by 33-year Hibbing lawyer Edward Matonich, his daughter, Julie Matonich, and David Arndt.

Rebrovich said he wears a brace on his knee at all times, except when he sleeps.

Matonich said that a physical therapist testified at trial that he had worked with no one who tried harder to rehabilitate himself than Rebrovich.

The plaintiff, who is the father of a 4-year-old daughter and a 2-year-old son, suffered a broken tibia as the result of stapling an anterior cruciate ligament to the tibia during one of his surgeries. Cadaver ligaments were used to rebuild the knee.

Rebrovich was a Marine Corps corporal who served in Saudi Arabia, Iraq and Kuwait from August 1990 to March 1991.

“He put his fanny on the line (in the Persian Gulf War), he never gets hurt as a lineman, he made it through an extensive apprentice program and never got scratched on the job (before the basket accident),” Matonich said. “Dan is more concerned about preventing this from happening to another lineperson than he is about the money.”

Kenneth Dodge, the Minneapolis attorney representing ABM, said there are several issues that will be considered for appeal.

“The equipment has a proven safety record and is standard within the industry,” Dodge said. “There is no other known episode of any operator falling while getting into or out of the bucket. The plaintiff used the identical piece of equipment for over two years, getting into and out of the bucket over 600 times without incident.

“The jury determined that the plaintiff was negligent with respect to the accident, but his negligence did not cause the accident. We believe that finding is inconsistent, and we also believe that several items of the jury verdict award were not supported by the evidence.”

Asked if Edward Matonich waved the American flag in front of the jury regarding Rebrovich's military service and whether the panel might have based its verdict on emotion, Dodge said:

“Yes and yes. It was undisputed that Mr. Rebrovich is a very nice individual who had a significant injury . He was well liked by the jury and the defendants, and both the jury and the defendants sympathize with his accident. The defendants disputed that the accident was their fault.”

Rebrovich saw the jury differently.

“The jury was very honest and fair,” he said. “My true feelings are that this system that we have in America is the best in the world. . . . I thank the jury. They did the right thing.”

The Minneapolis attorney for the city of Virginia and the Chicago attorney for Time Manufacturing did not return phone messages left at their offices on Monday's holiday.

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