

Westlaw

2003 WL 21369731

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Superior Court, Orange County, California

EFRAIN VELASCO LOPEZ AND JAVIER FRANCISCO LOPEZ V. MONARCH BUILDERS, INC. AND DSA ANAHEIM BUSINESS PARK CROSS-COMPLAINT: MONARCH BUILDERS, INC. AND DSA ANAHEIM BUSINESS PARK V. MICHAEL WINTERS CONSTRUCTION

No. 01CC15676

DATE OF VERDICT/SETTLEMENT: January 21, 2003

TOPIC: CONSTRUCTION - ACCIDENTS - NEGLIGENCE WORKERS SEVERELY INJURED AFTER METAL LEDGER FELL

SUMMARY:

AWARD: \$1,500,000

RESULT: Settlement

The plaintiffs settled their claim for a total of \$1.5 million (policy limits), of which \$1.4 million was paid to Efrain Velasco Lopez and \$100,000 to Javier Francisco Lopez.

The case settled relatively early in the litigation, just prior to the plaintiffs' depositions. Monarch Builders tendered the applicable insurance limits, which the plaintiffs accepted. DSA Anaheim Business Park was dismissed without having to make a payment and the cross-complaint was also dismissed after the settlement was entered into.

ATTORNEYS:

Plaintiff: Richard B. Koskoff; Booth and Koskoff; Torrance, CA

Defendant: Michael R Packer; La Follette, Johnson, DeHaas, Fesler, Silberberg and Ames; Loma Linda, CA Michael J. Strickroth; Howard, Moss, Loveder, Strickroth and Walker; Santa Ana, CA Dean E. Daggett; Dean E. Daggett Law Offices; Irvine, CA

JUDGE: Michael C. Brenner

RANGE AMOUNT: \$1,000,000-1,999,999

STATE: California

COUNTY: Orange County

INJURIES: Efrain Velasco Lopez's injuries rendered him a paraplegic. Javier Francisco Lopez suffered minor head injuries, which were substantially resolved at the time of settlement.

SUMMARY:

FACTS:

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Plaintiffs Efrain Lopez and Javier Lopez, both construction workers in their early 20s, were employed by Michael Winters Construction, an Orange County-based subcontractor who was doing the interior framing on each of the five buildings involved in a business park construction project in Orange County. Monarch Builders Inc., Orange County, was the general contractor.

On Dec. 19, 2000, the framing on three of the buildings had been completed and the plaintiffs were in the process of hanging joists at a height of about 14 feet above the concrete floor on the fourth building. The joists were secured to a beam on one end and at the other end and were set on the hanger of a metal ledger that was embedded in the tilt-up concrete wall. There were no nails, welding equipment or fasteners that secured the joists to the hangers.

Both of the plaintiffs were standing on the joist without fall protection when the joist slipped off the hanger, causing the plaintiffs and the joist to fall to the concrete foundation below. Efrain fell first and Javier fell on top of him. Efrain suffered paraplegia, and Javier suffered minor head injuries. The plaintiffs sued Monarch and DSA Anaheim Business Park, LLC (owners of the construction site) alleging negligence. Monarch filed a cross-complaint against Michael Winters Construction.

The plaintiffs contended that the ledgers were secured in the concrete wall before the walls were ever tilted up, but that there were irregularities in setting the ledgers in the concrete which resulted in some of the ledgers being more deeply embedded in the wall than others. The result was that on those ledgers that were too deeply imbedded, there was less surface space on the hanger to set the joist. After the wall on the first building had been tilted up, this problem was brought to the contractor's attention and the contractor remedied it. The plaintiffs contended that on the fourth building where they were working at the time of the accident, the ledgers were likewise too deeply embedded in the concrete, and under the weight of the plaintiffs, the joist slightly bowed and slipped off the ledger hanger.

The defendants denied that the ledgers on the building on which the plaintiffs were working were too deeply recessed in the concrete tilt-up wall. On the contrary, the defendants contended that the plaintiffs cut the joist too short. Further, the defendants maintained that the joists were not designed to hold the weight of two people, and the only reason the joist slipped off the hanger was because the joist bowed under the plaintiffs' weight. The defendants argued that the plaintiffs' employer, Michael Winters Construction, failed to provide for any fall protection, which would have eliminated the risk of harm.

ALM Properties, Inc.

Superior Court of California, Orange County, at Santa Ana

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