

**PRODUCTS LIABILITY****Design Defect****Worker trapped in machine sustained crush injuries****SETTLEMENT** **\$2,200,000****CASE** William Schilbe and Mary Ann Schilbe
v. ASMAG Anlagenplanung Uned
Sondermaschinebau Gmb H,
No. 2007-9265**COURT** Berks County Court of Common Pleas, PA**JUDGE** Albert A. Stallone**DATE** 10/5/2009**PLAINTIFF****ATTORNEY(S)** **Richard M. Jurewicz**, Galfand Berger, LLP,
Philadelphia, PA**DEFENSE****ATTORNEY(S)** **Morton F. Daller**, Daller Greenberg &
Dietrich, LLP, Conshohocken, PA
Jennifer Lynn Weed, Daller Greenberg &
Dietrich, LLP, Conshohocken, PA

FACTS & ALLEGATIONS On June 17, 2003, plaintiff William Schilbe, 51, a production supervisor for Cambridge-Lee Industries, a copper tubing manufacturer in Reading, was working on a coil stacker that was part of the coil transport system that was built and installed a year prior by ASMAG Anlagenplanung Uned Sondermaschinebau Gmb H, an Austria-based custom machine builder.

Copper tubing is processed through a production line known as a coil transport system. The coil stacker consisted of two towers that can stack coils eight high in each tower. Each copper coil is eight feet wide and two feet high. Schilbe's accident occurred in the area of the coil stacker where coils come into the stacker machine.

When a coil became stuck, Schilbe climbed up onto a conveyor leading into the stacker machine. He then leaned over

and went to adjust the leg of the coil that was hung up inside the stacker machine. While doing so, Schilbe instructed the machine operator to turn on the machine and resume operation. When the machine operator turned on the machine, the load bar came down and pinned Schilbe against the frame that he was leaning over and trapped him. While trapped, Schilbe became diaphoretic and cyanotic until co-workers freed him.

Schilbe sued ASMAG for products liability, alleging design defect. The plaintiff's engineering expert testified that the defendant failed to provide a perforated expanded metal guard for the machine where copper coils enter to be processed. The guard - expanded metal pocked with tiny holes - would have covered the open area in the machine where Schilbe leaned over, thus providing protection, according to the engineer, who added that the defendant failed to provide a jog mode on the control panel of the stacker to manipulate the coils when they got stuck.

Plaintiff's counsel contended that the defendant introduced a "pinch point hazard" in the coil stacker machine by adding the load bar in the structural frame member that ultimately came down on Schilbe and trapped him.

According to plaintiff's counsel, the stacker machine was part of an integrated coil transport system that was designed, manufactured and installed by ASMAG. A previous coil transport system at Cambridge-Lee was not integrated but essentially utilized the same pieces of machinery that were part of the newly integrated coil transport system designed and built by ASMAG. The old coil transport system had a coil stacker machine. The coil transport system that ASMAG had manufactured and installed was based on specifications provided to it by Cambridge-Lee Industries, whose engineers were sophisticated users.

Counsel asserted that the contract between Cambridge-Lee and the defendant had specifically excluded guarding of the coil transport system and the coil stacker, as any guarding needed

to be done was going to be done by Cambridge-Lee millwrights and mechanics after the equipment was installed. The subject machine was actually a duplication of a previous coil stacker machine that had been used by the plaintiff's employer since the mid 1970s. Like the coil stacker machine involved in Schilbe's accident, the original coil stacker machine also did not have any guarding where coils entered to be stacked.

The defendant denied the allegations. Defense counsel contended that the coil support stacker machine was built to specific specifications provided to ASMAG by the plaintiff's employer. These specifications included the express exclusion of guards for the machine which Cambridge-Lee agreed to do once the machine was installed, according to the defense. Also, the stacker machine essentially duplicated and replaced a previous stacker machine that did not have any guarding and it had been in use since the mid 1970s without incident, according to the defense.

Defense counsel maintained that Schilbe knowingly entered the machine in an area where he was not suppose to be. He could have repositioned the coil from the machine control panel by simply repositioning it with a long pole, which was used for that purpose, according to the defense. Defense counsel argued that the plaintiff knowingly assumed the risk of his injury by instructing the machine operator to start the machine while leaning inside it. As a production supervisor, Schilbe was not permitted to enter the machine or operate it and was aware of his employer's lock-out/tag-out policy that he failed to follow, the defense maintained.

Counsel further contended that the subject coil transport machine was processing coils larger in size than provided in the original specifications given to the defendant by Cambridge-Lee. It was the oversize coils that led to the jam-up inside the machine and not the design of it, defense argued.

INJURIES/DAMAGES *chronic pain syndrome; cyanosis; depression; diaphoresis; fracture, L1; fracture, L2; fracture, transverse processes; lacerations; loss of consortium; perforated duodenum; post-traumatic stress disorder; respiratory*

With his duodenum transected, Schilbe, who lost consciousness because of respiratory failure, was freed from the coil stacker and taken by ambulance to a local hospital where he received treatment for crush injuries to his abdomen and internal organs. He also suffered L1 and L2 left transverse process fractures, chronic pain syndrome and post-traumatic depression. He spent the next three months hospitalized and underwent surgery to repair his duodenum, a main vein in his abdomen that was severed and a hernia. Released on Sept. 24, the plaintiff spent the next two years treating intermittently with occupational,

physical and massage therapy. Schilbe was later diagnosed with post-traumatic stress disorder and depression that he treats with ongoing medication and counseling. He sought \$1,036,358 for past and future medical bills.

Cleared for light duty and unable to return to his former position, Schilbe is restricted to sedentary work because he tires easily. He can't climb, run or perform any activities that put strain on his abdomen, according to his medical and vocational assessment experts. The plaintiff sought \$819,035 for past and future wage loss and damages for past and future pain and suffering and emotional distress.

RESULT The parties settled for \$2.2 million prior to trial.

INSURER(S) Allianz Insurance

**PLAINTIFF
EXPERT(S)**

Bartley J. Eckhardt, P.E., mechanical,
Lancaster, PA
Charles C. Norelli, M.D., physical medicine,
Allentown, PA
Rovinder S. Sandhu, M.D., trauma,
Allentown, PA
Burton A. Weiss, Ph.D., psychiatry,
Philadelphia, PA
Robert P. Wolf, Ed.D., M.B.A., vocational
assessment, Cherry Hill, NJ

**DEFENSE
EXPERT(S)**

Franz Kremsmair, project management,
Scharnstein, Austria
Walter Lichtenegger, machine guards,
Scharnstein, Austria
John W. Meyers, P.E., Ph.D., engineering,
Madison, WI

EDITOR'S NOTE This report is based on information that was provided by plaintiff's counsel. Defense counsel did not respond to the reporter's phone calls.

—Aaron Jenkins

Plaintiff Expert: Bartley J. Eckhardt, P.E., President/CEO

Robson Forensic
Engineers, Architects, Scientists & Fire Investigators