

# The Legal Intelligencer

THE OLDEST LAW JOURNAL IN THE UNITED STATES

ALM

## Man Crushed by Shelving Awarded \$14 Million

BY GINA PASSARELLA

*Of the Legal Staff*

**A** now-partially paralyzed man was awarded \$10.6 million from a Philadelphia jury and settled with other defendants for about \$3.38 million after shelving in the warehouse where he worked collapsed, sending “thousands of pounds of product” on top of him.

In *Rice v. 2701 Red Lion Road Associates*, Leroy Rice, then 37 years old, was operating a forklift in the warehouse when it got stuck on some of the shelving, according to court documents.

While trying to move the forklift, it bumped into the racking, bending the leg of the racking. Rice waited for someone to walk by to help free the forklift, but after several minutes he decided to get off the forklift to get help. As he did, the shelving collapsed, according to court documents.

Rice sustained four fractured vertebrae in his lower back and is still incapable of walking on his own.

Rice’s attorney, Thomas J. Duffy of Duffy & Keenan, said Rice has nurses at his home for at least three hours a day for therapy and can no longer work. He is partially paralyzed from his lower back down and does not have control of his bladder or bowels, according to court documents.

The 12-member jury came back with a unanimous verdict and damages for \$10.6 million after deliberating for nearly four hours over two days, Duffy said.

The trial began on Monday, Sept. 25, and concluded on Friday, Sept. 29. It was held before Philadelphia Common Pleas Judge Eugene Edward J. Maier.

Rice filed suit against several defendants, including the owner of the warehouse, the manufacturer of the storage racking, the

company that sold the racking and the company that installed the racking, according to court documents.

Prior to trial, Rice settled with four of the defendants for a total of \$3.375 million, Duffy said. The property owner, 2701 Red Lion Road Associates, settled for \$2.1 million. Walter A. Schmidt Inc. sold some of the materials, and installed the racking system in 1979, according to court papers. Duffy said the company settled with Rice for \$325,000.

Warehouse Technologies performed periodic maintenance on the racking, and Duffy said the company settled for \$525,000. Curtiservice Inc. also performed racking maintenance and settled for \$425,000, he said.

According to court papers, the original demand before trial was \$20 million and there was no offer.

At trial, Duffy said he informed the remaining defendants, manufacturer Interlake Materials Handling and the original racking seller, Stokes Equipment Co., that he would accept \$1.5 million.

The defendants at one point during trial offered \$500,000 and then \$900,000 to settle the case, both of which were declined.

After deliberating for three hours on the afternoon of Sept. 28 and another 45 minutes on Sept. 29, Duffy said the jury came back with its verdict. He said he would seek about \$1.8 million in delay damages.

Because Stokes Equipment was the supplier of the racking, Duffy said it would pass through its liability to the manufacturer, Interlake, which will now be faced with paying the whole award.

Throughout trial, Duffy and his partner, Kenneth F. Fulginiti, argued that the racking was neither properly made nor properly attached to the floor, Duffy said.

The shelving was anchored to the floor



DUFFY

FULGINITI

with one bolt, according to court documents, and Duffy argued that it required at least two or three bolts to be properly secured. He said the shelving was designed to only have a place for one bolt.

The defense, led by Harold Friedman and Martha Gaythwaite of Friedman Gaythwaite Wolf & Leavitt in Maine, argued that one bolt is enough to properly secure the racking to the floor, Duffy said. They also argued, he said, that there is an attachment that can be purchased that would add places for additional bolts.

According to court documents, the defense originally took the argument that since selling the racking that was to be installed in the warehouse where Rice worked, the company has restructured. Interlake argued in court documents that a spin-off of the restructured company, Acme Metals Co., would now be the responsible party for products manufactured in 1978 by Interlake.

Expert witnesses that testified for Rice were mechanical engineer Jeffrey Ketchman of Connecticut, occupational therapist Irene Mendelsohn of Penn Valley, Pa., and life care planner Kathleen Corrigan of Havertown, Pa.

Gaythwaite was unavailable for comment by the time of publication. •