

Plaintiff who lost hand in farm accident settles for \$650,000

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A Marion County man who suffered the loss of his hand while using a mechanical corn picker has settled a products liability lawsuit for \$650,000.

Nathan Hughey of Mount Pleasant said his client, Donnie Larrimore, agreed to the settlement on Jan. 4, more than four years after the September 2006 accident.

Larrimore claimed he was using a 1978 single-row corn picker made by New Idea Farm Equipment Co. when the accident occurred. He was trying to clear corn husks clogged in the machine's husking rollers when the rollers caught the two middle fingers of his right hand.

Unable to free himself, Larrimore, using his left hand, repeatedly called 911 while the rollers dragged his hand further into the machine, said Hughey. After 40 minutes, they had hold of the entire hand. Thirty minutes later, emergency medical technicians arrived after Larrimore's sister contacted them.

Larrimore lost his hand and part of his lower arm. A truck driver, he was left unemployable because potential employers regarded him as too much of a risk, Hughey said.

"It really, obviously, ruined his life," Hughey said.

The plaintiff named several defendants and included negligence and breach of the implied warranties of merchantability and fitness for a particular purpose among his causes of action.

The primary defendant was Rhode Island-based Avco Corp., which Hughey said had bought New Idea. In its answer, Avco denied that it ever made corn pickers but said the former New Idea Farm Equipment Division of a subsidiary dissolved before 1983 had manufactured them.

Hughey said his client's case centered on claims that New Idea knew of injuries that had resulted from similar accidents involving its corn pickers and that it should have included a shield over the rollers as well as an emergency stop mechanism.

To make that case, Hughey and co-counsel Ian D. Maguire of Myrtle Beach focused on convincing a Marion County jury that such features would have made the machine safe. That meant showing that

they were feasible and had been field-tested. The lawyers planned to use videos to show just how safe they were.

“We actually had the exact same corn picker rigged with these additions, and it worked like a charm,” Hughey said.

A lawyer for the defense, Larry C. Deener of Lexington, Ky., said the corn picker and others like it, though now outdated, represented the best technology of their time.

“The engineers who designed and manufactured the corn picker believed up to their dying days that there were no defects in the corn picker,” Deener said. “We believe that it was a very good machine in the technology of its day.”

To some extent, the case wasn’t all that different from previous cases involving corn pickers, Hughey said. That, he said, gave the plaintiff an advantage in discovery because experts already had relevant industry documents.

Nonetheless, Larrimore’s case was unusual in part because mechanical corn pickers are now so rare, said lawyers on both sides.

Once a necessity for processing corn crops, corn pickers had many manufacturers. But they faded away as new technology supplanted them. New Idea, for example, stopped production in the early 1980s, Deener said.

“It’s not a current product, and there aren’t any people still alive who were involved in this,” Deener said.

Hughey said he believed that the rarity of litigation like Larrimore’s may have helped the parties reach a settlement. In cases involving technology that is no longer in production, defendants might prefer to avoid trials to keep costs down, he said.

Deener didn’t say whether his clients had any such motivation. But he did say that all of the parties were open to mediation.

“This was a case in which both sides were trying to look at the issues and trying to resolve it amicably short of a trial,” he said.

Hughey said Larrimore, who was at his farm in a remote part of Marion County when the accident occurred, eventually reached 911 dispatchers but had to call his sister after he realized that the dispatchers were having trouble hearing what he was saying. After she came to the scene, she was able to call in emergency help.

MEDIATED SETTLEMENT REPORT

Brief statement of claim: Plaintiff Donnie Larrimore, a lifelong Marion County resident, claimed that he has been unable to find employment as a truck driver ever since September 2006, when he suffered the loss of a hand in an accident involving a corn picker while working at his farm. Companies see him as a

high liability risk due to his missing hand, he said, and he also said he can no longer hunt or perform the daily activities he used to do.

The plaintiff claimed that the accident occurred when he was using a 1978 New Idea Farm Equipment Co. single-row corn picker. When the picker became clogged, the plaintiff tried to clear corn out of the husking rollers, but the rollers grabbed his two middle fingers. The plaintiff called 911, repeatedly and without success while the machine was pulling his fingers further in. As time went on, the corn picker grabbed his other fingers. Forty minutes into the ordeal, his sister arrived. Thirty minutes later, emergency medical technicians arrived. The plaintiff lost his hand.

The plaintiff claimed New Idea was liable for placing a defective product into the stream of commerce. The company, he asserted, knew that rollers in the corn picker moved extremely fast and could injure people yet failed to design around the problems despite existing technology. Specifically, the plaintiff claimed the company failed to place a shield over the rollers and failed to include an emergency stop mechanism.

Principal injuries (in order of severity): The plaintiff lost his hand.

Special damages: \$750,698 in estimated current and future medical costs.

Tried or settled: Settled

County and court where tried or settled: Marion County Court of Common Pleas

Case name and number: *Larrimore vs. AVCO Corporation, Paul Revere Corporation, Textron, Inc., Allied Products Corporation, New Idea Corporation, Marion County EMS and Omni Transport Systems, LLC*, No. 08-CP-33-342

Date concluded: Jan. 4, 2011

Name of mediator: Karl A. Folkens of Florence, S.C.

Amount: \$650,000

Insurance carrier: n/a

Expert witnesses, areas of expertise and hometown: Sarah Lustig, RN, LNC, CLCP (lifecare planner) of Mount Pleasant, S.C.; Robert E. Brabham, Ph.D (psychologist and vocational rehabilitation) of Columbia, S.C.; Ken Richardson, MS, PE (engineering) of Mount Pleasant, S.C.; Ruston M. Hunt, PE (human factors) of Norcross, Ga.; Kevin Severt, PE (engineering) of Wichita, Kan.; and Oliver Wood Jr., Ph.D (economist) of Columbia, S.C.

Attorneys for plaintiff: D. Nathan Hughey and Ian D. Maguire

Submitted by: D. Nathan Hughey