

VERDICTS&SETTLEMENTS

VERDICTS AND SETTLEMENTS FORM : WWW.LAW.COM/JSP/PA/SUBMIT_VERDICTS.JSP



Estate of Worker Settles Wrongful Death Lawsuit *Wardrop v. Pyle Transport Services Inc.*

\$1.7 Million Settlement

Date of Settlement:

Aug. 27, 2010.

Court and Case No.:

Philadelphia Common Pleas Court, 090400503.

Judge:

Nitza Quiñones Alejandro.

Type of Action:

Personal Injury.

Injuries:

Death.

Plaintiff's Attorneys:

Ken Fulginiti, Duffy + Partners, Philadelphia.

Plaintiff's Experts:

Frank Costanzo, liability, Accident Cause & Analysis, Chester Springs, Pa; Dr. Wayne K. Ross, forensic pathology, Lancaster County Coroner's Office, Lancaster, Pa; David Hopkins, economist, King of Prussia, Pa.

Defense Counsel:

Douglas B. Marcello, Marcello & Kivisto, Carlisle, Pa.

Defense Experts:

None provided.

Comment:

The estate of a warehouse worker crushed to death by a forklift settled a personal injury lawsuit with the company whose driver pulled his tractor trailer forward 30 feet while the warehouse worker was starting to unload the trailer, causing the warehouse worker's forklift to topple onto him. Bruce Wardrop, then 52, operated a forklift to unload tractor trailers delivering goods to the Yale Electric yard in Lancaster County where Wardrop worked, according to the plaintiff's pretrial memorandum.

Defendant Richard T. Robinson, an



KEN FULGINITI



TOM DUFFY

ing to the plaintiff's memorandum.

After Robinson pulled the truck into the unloading area and pulled back the side curtains on the truck from which the piping could be unloaded, Robinson decided to pull the tractor trailer 30 feet forward to a better spot, the plaintiff's memorandum said. Wardrop, however, was already starting to unload the tractor trailer, having put the forks of his forklift in place to lift a pallet off the truck load.

As Robinson drove the truck forward, the forklift overturned and crushed Wardrop, the plaintiff's memorandum said.

The plaintiffs alleged Robinson did not make any effort to contact Wardrop, did not check his sideview mirrors before pulling forward, did not secure his cargo and close all doors before moving the trailer, and, because of hearing loss, did not hear warning horns sounded by Wardrop, as well as another person in another truck.

"Mr. Robinson effectively invited Mr. Wardrop to begin unloading the trailer when he opened the left side curtain of the trailer and unsecured the pallets," Wardrop's wife, Teresa Wardrop, argued in papers. "Mr. Robinson's acts typically and customarily signal readiness for unloading in the trucking industry."

Wardrop was unable to speak because of severe trauma to his chest, and Wardrop died on the way to the hospital, the plaintiff's memorandum said.

Wardrop was comparatively or contributorily negligent, according to the defendants' pretrial memorandum.

The defendants also said that Wardrop failed to employ proper procedures prior

employee of Pyle Transport Services Inc., was delivering several pallets of conduit piping owned by Allied Tube and Conduit Corp. to the yard Feb. 19, 2008, accord-

to commencing the unloading of the trailer and that Robinson checked his mirrors before moving the truck and did not see Wardrop.

The defendants also argued that Wardrop was not wearing the seat belt on the forklift; if he had worn the seat belt and stayed on the forklift, any injury would have been "survivable with minimal or minor injury occurring."

Wardrop estate's past medical and funeral expenses were \$15,000, the estate's past wage loss and fringe benefits were \$80,000 and the estate's future wage loss and fringe benefits were \$865,000, the plaintiff's memorandum said.

There is a \$30,000 workers' compensation lien, plaintiff's counsel Fulginiti said.

If the case had gone to the jury, the "wild card," Fulginiti said, was whether a jury would have found significant pain and suffering by Wardrop. Witnesses said he was trying to mouth words, but was not able to, which is consistent with a suffocating type of death, Fulginiti said.

The defense, however, said that witnesses said that Wardrop was unconscious, and there was "minimal, or any, conscious pain and suffering after the accident."

Doubling Wardrop's wage loss seemed to be a favorable recovery for the estate, Fulginiti said.

Pyle Transportation had retention coverage of \$500,000, and \$5 million coverage with Lexington Insurance, according to the defendants' memorandum.

Defense counsel did not respond to a request for comment.

Other defendants, Lift, Inc., and Allied Tube and Conduit Corp., got motions for summary judgment, according to the court docket.

— *Amaris Elliott-Engel, of the Law Weekly*