

Stonberg Effectively Defends City of New York in Electrocution Case

Plaintiff was working on a large road renovation project in Manhattan when his shovel contacted an underground power line, causing his electrocution. Plaintiff sued The City of New York, alleging negligence and violation of New York's Labor Law Section 241(6). Plaintiff also sued Con Ed, the owner of the live wire contacted by plaintiff. Mike Stonberg of our NYC office represented The City of New York at trial.

Since the Labor Law violation and its imposition of absolute liability all but guaranteed a verdict in plaintiff's favor on liability -- we narrowly survived summary judgment -- the trial was really about damage control. Plaintiff claimed that the electrical shock caused significant physical and emotional injuries and his demand at the start of trial was \$1.2 million. He called a neurologist, physiatrist and psychiatrist as injury/damages experts. After our vigorous cross-examination, particularly of plaintiff's treating physiatrist, plaintiff lowered his demand to \$400,000. Our orthopedist and neurologist did well, but had to concede that an electric shock can cause serious personal injury which doesn't always show up on traditional diagnostic testing.

Since we counseled our client that the evidence was going in well, we were not willing to pay more than the \$300,000 offered. The jury returned a verdict against our client in the amount of \$262,500. Our client was very happy with our accurate assessment of the potential recovery from beginning to end, and of our advocacy skills at trial to get the job done right.

An interesting side note to the case -- initially, plaintiff's claims of damages focused primarily on the physical injuries. However, since we were able to challenge them effectively, plaintiff's emphasis at trial switched to the alleged psychological claims. Plaintiff's attorney had referred plaintiff to a psychiatrist who counseled plaintiff and administered a potpourri of anti-depression and anti-anxiety medications. At trial, the psychiatrist testified that he believed plaintiff was depressed. The defense did not retain an IME psychiatrist because experience suggested that it was very difficult for a psychiatrist to claim he can diagnose a plaintiff's condition after one session in an adversarial setting. (It's also difficult to find a psychiatrist who readily discounts plaintiff's exaggerated claims.) We didn't believe plaintiff and didn't think a jury would either. The defense bar often discounts psychological claims and focuses more on the orthopedic injuries, but we believe the emotional aspect of this claim won favor from the jury.