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Civil Jury Verdicts

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Crane Repair Negligence - A welder working in a manufacturing facility suffered career-ending injuries when a crane suspended from the ceiling became detached from its rigging and fell on him; plaintiff sought recovery from the company that had been hired to inspect and repair the crane

Lightner v. Hoosier Crane Service Co., 20D03-1505-PL-125

Plaintiff: Patrick F. O'Leary, Goshen

Defense: J. Thomas Vetne, *Jones*

Obenchain, LLP., South Bend Verdict:

Defense verdict on liability County:

Elkhart, Superior

Court: J. Cataldo, 9-20-18

In 2013, a company called Stealth Enterprises, LLC. was engaged in the manufacture of cargo and utility trailers at a facility in the town of Bristol. The operation of the facility involved the use of several large hoists or cranes suspended from the ceiling.

The cranes used by Stealth required annual inspection and occasional maintenance. Stealth contracted with a company called the Hoosier Crane Service Company to perform the inspections and make recommendations as to whether repairs were needed. If Stealth did elect to make recommended repairs, the company would hire Hoosier Crane to perform them.

Hoosier Crane had inspected Stealth's cranes annually since 2010. During the annual inspection on 10-

19-12, Hoosier Crane's inspector noticed that a particular crane, identified as crane 9, was missing a lock nut. This was important because without that lock nut, the "trolley" – i.e., a large part of the crane – could detach and fall.

The missing lock nut was noted in the inspector's written report to Stealth. However, there is some disagreement as to whether the inspector ever warned Stealth's management of the specific danger posed by the missing lock nut. In any event, the appropriate repair was not made, and the lock nut was not replaced.

Approximately nine months later on 7-10-13, James Lightner began working for Stealth as a welder. He had been working for the company slightly more than two months when disaster struck. On 9-20-13, the trolley on crane 9 became detached and fell approximately 12 feet. It hit Lightner who happened to be standing beneath it.

Lightner suffered extensive injuries that included multiple rib fractures and a nerve injury in his left leg. After being hospitalized for two weeks, Lightner reached maximum medical improvement and was assigned a permanent partial impairment rating of 24%.

Lightner's nerve injury has left him with a permanent foot drop condition. As a result, he now makes use of a cane to help him stand and walk. His incurred medical expenses came to more than \$206,000. Of that amount, worker's compensation paid \$123,333.

Lightner filed suit against Hoosier Crane and blamed the company for failing to repair the crane. His wife, Andria Lightner, initially presented a derivative claim for her loss of

consortium. However, she later stipulated to the dismissal of that claim.

The litigation proceeded solely on Lightner's claim against Hoosier Crane. Plaintiff's expert on hoists and cranes was Larry Dunville of Tucson, AZ. Plaintiff's vocational expert was Robert Barkhaus of West Lafayette. It was Barkhaus's opinion that Lightner can no longer work and has a lifetime lost income of \$1,300,000.

Hoosier Crane defended the case and disputed the nature, extent, and causation of Lightner's claimed injuries. Defendant also sought to implicate the fault of Stealth. On this point, defendant argued the crane had fallen partly due to operator error. Specifically, a Stealth employee had been trying to use the crane to lift a load at an angle. This made it more likely the trolley would detach.

Hoosier Crane also denied it owed any duty to Lightner because he was not a party to the contract between Hoosier Crane and Stealth Enterprises. Moreover, even if Hoosier Crane had owed a duty to Lightner, the company denied any breach of such a duty.

Hoosier Crane explained that its inspector had pointed out the problem with the lock nut the day the problem was discovered. Defendant also submitted a quote for the recommended repair, yet Stealth never responded to the recommendation. Hoosier Crane argued the company could not be held liable for failing to make a repair it had never been hired to make.

Lightner rebutted this argument by pointing to the deposition of defendant's inspector. In his

deposition, the inspector admits he could not recall whether he had ever told anyone at Stealth about the risk that the trolley could fall without the lock nut.

Additionally, Lightner also cited the testimony of three eyewitnesses who recalled seeing Hoosier Crane technicians performing repair work on the crane just two to four weeks before Lightner was injured. Those

technicians were surely in a position to perceive the danger, yet they did nothing about it.

At the conclusion of a four-day trial in Goshen, the jury returned a defense verdict for Hoosier Crane. At the time the IJVR reviewed the record, no judgment had yet been entered. Prior to trial, Lightner's settlement demand had been for \$5,000,000. Hoosier Crane's

settlement offer was \$500.