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Court Won't Block High School Sports Concussion Suits

BY MAX MITCHELL
Of the Legal Staff

A state appellate court has refused to block a proposed class action over concussion-related injuries against Pennsylvania's governing body for high school sports.

The Commonwealth Court on Tuesday denied the Pennsylvania Interscholastic Athletic Association Inc.'s bid to stop a proposed class action that was lodged by two former high school football players and a softball player. The ruling in *Hites v. Pennsylvania Interscholastic Athletic Association* affirmed a decision from the Lawrence County Court of Common Pleas that determined the case should not be tossed out at the preliminary objection phase, but should proceed to discovery on several issues.

Chief among those issues, the PIAA had argued that, because the plaintiffs knew of

Concussion *continues on* **11**

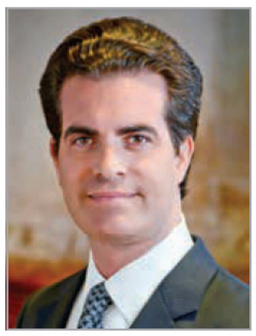
$17 Million Settlement for Man Paralyzed By Falling Machinery

BY P.J. D'ANNUNZIO
Of the Legal Staff

A man who was hit in the head by a falling trolley boom lift—a type of crane attached to a truck—has settled his personal injury case for $17 million.

Brian Smith, a truck driver for a masonry company, sued the boom lift's manufacturer, USTC; the dealer who sold the boom lift, Garden State Engine & Equipment; and its owner, Kennedy Concrete, in the Philadelphia Court of Common Pleas for the paralyzing injuries he sustained.

On the morning he was injured in January 2015, the then 42-year-old Smith was offloading a shipment of 3,500-pound concrete blocks to a residential construction site in Cape May, New Jersey. He noticed a creaking sound—according to court papers, it was the boom lift used to hoist the blocks breaking in two—but before he could react he was struck on top of his head and fell to the ground with a fractured neck, bleeding profusely.



CASEY

Smith was taken by helicopter to AtlantiCare trauma center. According to court papers, his spine needed to be fused and he was hospitalized and in rehabilitation for 10 months.

Smith was represented by Matthew Casey and John Pinto of Ross Feller Casey in Philadelphia.

"We're pleased to be able to recover money that will go a long way towards helping Mr. Smith live the rest of his life," Casey said in an email. "The only extent to which the resolution is in any way disappointing was the fact that there was limited insurance coverage. The case would have settled for substantially more money had there been more insurance coverage."

Robert Billet of Billet Hillsley represented

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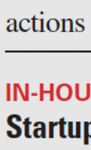
– INSIDE THE LEGAL –

REGIONAL
NJ Town Reaches $575K Settlement . . . 3
Linden has agreed to pay $575,000 to settle a federal civil rights suit stemming from a municipal court case in which the town's judge served as both judge and prosecutor.

NATIONAL
Harvey Weinstein's Weekend 4

Resignations, terminations and even a hiring took place at a rapid pace over the weekend for several lawyers caught up in the controversy emanating from Harvey Weinstein's alleged actions in Hollywood and elsewhere.

IN-HOUSE COUNSEL
Startup Culture 5
When companies start growing fast, it's time to start building an ethical and compliant culture that doesn't put that investment at needless risk, writes Shon Ramey.

Settlement

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Kennedy; John Kent of Kent McBride represented USTC; and William Catto represented Garden State. None returned calls seeking comment.

Smith alleged that USTC was responsible for design defects in the boom lift that fell on him.

"The critical flaw in the design of this USTC Trolley Boom Lift is the usage of varying connections with varying bolt lengths that directly impacted the safety of the machine and made it unreasonably dangerous for the ordinary and intended use of transporting several ton loads," court papers said.

Smith also claimed that Garden State used subpar bolts in the boom lift it sold to Kennedy.

"Garden State represented it was providing top-of-the-line bolts for installation into the USTC Trolley Boom lift, however, it was actually supplying inferior quality bolts to Kennedy for installation into this machine," court papers said.

Lastly, the plaintiff alleged Kennedy did not perform the proper maintenance required for the boom lift.

USTC claimed in its court papers that the boom lift was not defective and blamed Kennedy for the accident, claiming the company failed to properly maintain the machine, an argument that Garden State repeated in its court papers. Kennedy, in its papers, denied any negligence and claimed it checked the equipment annually.

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