



Worker suffered fatal burns from discharge in electrical vault

Type: Mediated Settlement

Amount: \$19,685,849

State: New York

Venue: Kings County

Court: Kings Supreme, NY

Injury Type(s):

- *arm*
- *leg*
- *back*
- *burns* - third degree; second degree
- *other* - death; sepsis; buttocks; dialysis; hyperalgesia; organ failure; staph infection; physical therapy
- *cardiac* - cardiac arrest
- *urological* - kidney failure
- *neurological* - nerve damage/neuropathy
- *surgeries/treatment* - skin graft; debridement; tracheostomy/tracheotomy
- *mental/psychological* - anxiety; post-traumatic stress disorder
- *pulmonary/respiratory* - pneumonia; smoke inhalation; respiratory distress; adult respiratory distress syndrome
- *gastrointestinal/digestive* - gastrointestinal complications; ileus

Case Type:

- *Workplace* - Workplace Safety
- *Wrongful Death* - Survival Damages
- *Worker/Workplace Negligence* - Labor Law; Negligent Supervision

Case Name: Juan Ramon Ramirez as Administrator of the Estate of Juan Emilio Ramirez, Deceased v. Village East Towers, Inc and Consolidated Edison Company of New York, Inc., No. 1744/2016

Date: August 16, 2019

Plaintiff(s):

- Estate of Juan Emilio Ramirez (Male, 30 Years)

Plaintiff Attorney(s):

- Martin W. Edelman; Edelman & Edelman, P.C.; New York NY for Estate of Juan Emilio Ramirez
- Paul H. Maloney IV; Edelman & Edelman, P.C.; New York NY for Estate of Juan Emilio Ramirez
- Cameron Thompson; Edelman & Edelman, P.C.; New York NY for Estate of Juan Emilio Ramirez

Plaintiff Expert(s):

- Julia Sze R.N., M.S., C.L.N.C.; Nursing; Kew Gardens, NY called by: Martin W. Edelman, Paul H. Maloney IV, Cameron Thompson
- Larry Kirstein M.D.; Psychiatry; New York, NY called by: Martin W. Edelman, Paul H. Maloney IV, Cameron Thompson
- Tracy McGrane M.D.; Anesthesiology; Nashville, TN called by: Martin W. Edelman, Paul H. Maloney IV, Cameron Thompson
- Curtis Latzo P.E.; Electrical; Madeira Beach, FL called by: Martin W. Edelman, Paul H. Maloney IV, Cameron Thompson
- Daniel F. Lonergan M.D.; Pain Management; Franklin, TN called by: Martin W. Edelman, Paul H. Maloney IV, Cameron Thompson
- Priyan De Silva P.E.; Electrical; Gaithersburg, MD called by: Martin W. Edelman, Paul H. Maloney IV, Cameron Thompson
- Robert G. Frein; Demonstrative Evidence; Westbury, NY called by: Martin W. Edelman, Paul H. Maloney IV, Cameron Thompson
- Ronald Missun Ph.D.; Economics; Louisville, KY called by: Martin W. Edelman, Paul H. Maloney IV, Cameron Thompson
- Gregory Rendelman R.N.; Nurse Anesthetist; Wichita Falls, TX called by: Martin W. Edelman, Paul H. Maloney IV, Cameron Thompson
- Maurice Cueva-Eguiguren P.E.; Electrical; Port Chester, NY called by: Martin W. Edelman, Paul H. Maloney IV, Cameron Thompson

Defendant(s):

- Maximum Electric Corp.
- Village East Towers Inc.
- Consolidated Edison Company of New York Inc.
- Lawless & Mangione Architects Engineers, LLP

Defense Attorney(s):

- Lawrence A. Doris; Flynn, Gibbons & Dowd; New York, NY for Village East Towers Inc.
- Rory L. Lubin; Wilson, Elser, Moskowitz, Edelman & Dicker LLP; White Plains, NY for Maximum Electric Corp.
- Martin A. Schwartzberg; Marshall Dennehey Warner Coleman & Goggin, P.C.; Melville, NY for Lawless & Mangione Architects Engineers, LLP
- Scott L. Haworth; Haworth Barber & Gerstman, LLC; New York, NY for Village East Towers Inc.
- None reported for Consolidated Edison Company of New York Inc.
- Suleman Malik; Wilson, Elser, Moskowitz, Edelman & Dicker LLP; New York, NY for Maximum Electric Corp.

Defendant Expert(s):

- Alex Kattamis Ph.D., P.E, C.F.E.I.; Electrical; New York, NY called by: for Rory L. Lubin, Suleman Malik
- Andrew J. Neuhalfen P.E., Ph.D.; Electrical; Algonquin, IL called by: for Lawrence A. Doris, Scott L. Haworth

Facts:

On March 24, 2014, plaintiff's decedent Juan Emilio Ramirez, a mechanic in his 30s, worked at a renovation site that was located at 170 Ave. C, in the Alphabet City section of Manhattan. He had been directed to replace electric cables that were located in an underground vault. During the course of Ramirez's work, an arc flash occurred. Ramirez suffered fatal burns.

Ramirez's father, Juan Ramon Ramirez, acting as administrator of his son's estate, sued the renovation site's owner, Village East Towers Inc., and the vault's maintainer, Consolidated Edison Company of New York Inc. The lawsuit alleged that the defendants negligently failed to provide a safe workplace. The lawsuit further alleged that the defendants' failure constituted a violation of the New York State Labor Law.

Village East Towers impleaded Juan Emilio Ramirez's employer, Maximum Electric Corp. Village East Towers sought indemnification.

Maximum Electric impleaded the company that planned the cable-replacement project, Lawless & Mangione Architects Engineers, LLP. Maximum Electric alleged that Lawless & Mangione was negligent in its supervision of the project.

The estate's counsel discontinued the claim against Consolidated Edison. The matter continued against the remaining defendants.

The estate's counsel contended that Juan Emilio Ramirez was not an electrician and therefore was not qualified to replace electric cables. The estate's counsel also contended that Ramirez was not adequately supervised.

Ramirez had been provided a suit that insulated against arc flashes. He did not utilize the equipment, but the estate's counsel contended that the suit would not have been effective. The estate's counsel claimed that the arc flash produced incident energy of 174.37 calories per square centimeter, but that the suit's insulating capacity was rated at a lesser value: 8 calories per square centimeter. According to the National Fire Protection Association, workers should not be exposed to potential arc flashes that could produce incident energy reaching or exceeding 40 calories per square centimeter. The estate's counsel contended that Village East Towers failed to provide or ensure reasonable and adequate protection, as required by Labor Law § 241(6).

Village East Towers' counsel contended that Maximum Electric was the supervising contractor and therefore liable for the accident.

Lawless & Mangione's counsel contended that Lawless & Mangione merely schemed the cable-replacement project and was not responsible for direction or supervision of the actual work.

Maximum Electric's counsel contended that Lawless & Mangione knew that the project would involve replacement of live wires that had deteriorated and were therefore unsafe. Maximum Electric's counsel further contended that Lawless & Mangione had been aware of prior occurrences of sparks and short circuits in the vault.

Maximum Electric's counsel also contended that the arc flash was a result of cable damage created during excavation work performed by one of the renovation project's subcontractors, New York Plumbing, Heating & Cooling Corp.

Maximum Electric's counsel further contended that Ramirez's injury was entirely a result of Ramirez's failure to utilize the protective suit that had been provided.

Injury:

Ramirez suffered second- and third-degree burns of a total of about 80 percent of his body. The burns included third-degree burns of his arms, his back, his buttocks, his legs and the right side of his torso. The burns caused extensive damage of nerves.

Ramirez was retrieved by an ambulance, and he was transported to a hospital. He underwent debridement of burned tissue, and he required daily dressing of his wounds. The treatment caused pain that necessitated Ramirez's use of an opioid-based painkiller. His pain's severity necessitated application of restraints, to prevent movement that may have dislodged intravenous lines or other equipment.

During the 53 days that followed the accident, Ramirez underwent a total of 10 surgeries. The first, performed after a day had passed, was an escharotomy, which involved surgical division of burned skin of his legs, to relieve constriction and pressure. Other surgeries involved a tracheostomy, application of grafts of skin and debridement of damaged tissue. He also underwent 11 bronchoscopies, which involved endoscopic exploration of his lungs, and extensive physical therapy, which included exercises intended to diminish range-of-motion restrictions caused by his injuries.

On April 15, 2014, while still hospitalized, Ramirez suffered a cardiac arrest caused by occlusion of his endotracheal tube. He was successfully resuscitated.

Ramirez later developed an ileus: painful obstruction of a bowel. The condition caused distention that necessitated rectal catheterization and the administration of enemas.

Ramirez also developed hyperalgesia, which is an exaggerated, often painful, response to stimuli; repeated infections, which included sepsis and a Staphylococcus infection; adult respiratory distress syndrome, which stemmed from his inhalation of smoke during the accident; pneumonia; pleural effusion; kidney failure, which required administration of dialysis; and, ultimately, fatal failure of other organs. The estate's counsel claimed that Ramirez had been aware of the potentially fatal outcome of his injuries and suffered post-traumatic stress disorder, with manifestations that included extreme anxiety.

Ramirez, 53, died on June 4, 2014. He was survived by three daughters. Ramirez's estate sought reimbursement of a workers' compensation lien in the amount of \$314,150.72. The estate also sought recovery of wrongful-death damages that included a total of \$2,114,302 to \$3,760,710 for the estate's past and future loss of Ramirez's earnings; damages for Ramirez's pain, suffering and fear of impending death; and damages for his children's loss of parental guidance.

Result:

The parties negotiated a pretrial settlement. Village East's insurer agreed to pay \$100,000; Lawless & Mangione's insurers agreed to pay a total of \$250,000, with equal contributions by each insurer; and Maximum Electric's insurer agreed to pay \$19,335,849.28. Thus, the settlement totaled \$19,685,849.28. The settlement also included a waiver of the estate's workers' compensation lien. The settlement's negotiations were mediated by Peter Skelos, of National Arbitration and Mediation Inc.

Trial Information:

Judge: Peter Skelos

Editor's Comment: This report is based on information that was provided by plaintiff's counsel and Lawless & Mangione's counsel. Additional information was gleaned from court documents. Consolidated Edison's counsel was not asked to contribute, and the remaining defendants' counsel did not respond to the reporter's phone calls.