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ATTORNEYS AT LAW

## \$3.6 MILLION SETTLEMENT FOR MILLWRIGHT WHO FALLS FROM SCAFFOLD, INJURES BACK

The worker (FWY's client), a resident of Rochester, NY and a member of the millwright's union, was injured as the result of a scaffolding accident that occurred at a microchip processing plant in upstate New York. At the time of the accident, the plant was in the final stages of construction. FWY's client was working for a contractor who had been retained to install overhead tracks in the processing plant's "clean room." The tracks were designed to carry various parts in motorized cars from station to station in the clean room, where chips would be assembled.



The accident occurred when the lightweight aluminum scaffolding toppled over as it was being pushed from one work location to another, while FWY's client was "riding" the top section of the two-level scaffolding. The plant's owner and general contractor had adopted this procedure and allegedly required subcontractors to follow it in order to work faster, even though pushing scaffolding with workers on it violated their own safety protocols, NY regulations and safe construction practices. The scaffolding went over when its wheels hit an obstruction on the ground, which had been left on site in violation of internal housekeeping rules. The scaffolding was also missing an anti-tipping outrigger.

The worker injured his shoulder, low back and neck, and at first thought his injuries were not that severe. Unfortunately, however, his conditions worsened over time, and he eventually needed a cervical fusion surgery, but was left unable to return to work. The worker had initially retained another law firm to represent him. A complaint was filed in Saratoga County (NY) Supreme Court, alleging negligence and violations of NY's Labor Law, § 240, but the firm did little else to advance the case, it lingered for several years and the defendants' insurers made only a \$27,000.00 offer.

Displeased with the lack of progress, the injured worker fired his attorneys and turned to Mike Flynn and Scott Orndoff at FWY. The case almost immediately turned around. Through various motions, Attorneys Flynn and Orndoff forced the defendants to pay attention to the case. Several depositions were taken, including the defendants' representatives. A construction expert was retained. Several reports were also obtained from economic, vocational and medical experts, including an estimate of the present value of the client's future lost earning capacity and the development of a life care plan estimating the future cost of the client's medical needs. Then, after filing a note of issue marking the case trial ready, Flynn and Orndoff filed a motion for summary judgment on the liability issues. The motion was granted, establishing liability in the worker's favor as a matter of law, meaning that the only issue left for trial would be damages.

Shortly after the court granted the summary judgment motion, the defendants asked that the case be submitted to a private mediator. After several delays, during which a number of insurance coverage issues were resolved, the mediation eventually occurred on June 28, 2018 in Albany, NY, only three weeks before the case was scheduled for trial. After a full day of negotiations, the parties reached a settlement in the amount of \$3.6 million.

FLYNN|WIRKUS|YOUNG, P.C. is a sophisticated firm of trial attorneys, rated AV® Preeminent™ by Martindale-Hubbell. We are a medium-sized firm dedicated to the practice of civil litigation in New England, the Northeast and across the U.S. At FWY, we put our passion to work to ensure your excellence. We develop a creative approach to suit each of our clients' individual needs. To us, conventional wisdom is never good enough.

More information pertaining to additional specific results will be provided upon request. Prior results do not guarantee a similar outcome.

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