

RETURN DATE: APRIL 20, 2010 : SUPERIOR COURT  
TODD R. SYMECKO : J.D. OF NEW LONDON  
VS. : AT NEW LONDON  
TURNER CONSTRUCTION COMPANY : MARCH 8, 2010

COMPLAINT

COUNT ONE (Negligence)

1. On or about August 21, 2009, the Defendant, Turner Construction Company, was the general contractor in charge of a construction site on Lock Street in New Haven, CT.

2. On the above date, the Plaintiff, Todd R. Symecko, a resident of East Lyme, CT and employee of Walter D. Sullivan Company, Inc., a subcontractor on the said construction site, was lawfully on the job site premises as part of a crew performing welding services. The Plaintiff was a business invitee of the Defendant.

3. The construction site in question was operated, managed, supervised, inspected and/or controlled by the Defendant, Turner Construction Company.

4. At approximately 2:00 p.m., while attempting to clear a path for a lift machine, the Plaintiff leaned on a guardrail that was not properly installed, secured or fixed, and which failed, causing

the Plaintiff to fall approximately ten feet into an open elevator shaft pit, suffering severe and life-threatening injuries as further described below.

5. The guardrail that failed was installed and inspected by Turner Construction Company.

6. The Plaintiff's fall and resulting injuries were proximately caused by the negligence and carelessness of the Defendant, Turner Construction Company, including its agents, servants, and/or employees, in one or more of the following ways, in that it:

- a. failed to provide required fall protection in violation of 29 C.F.R. § 1926.502(a);
- b. failed to provide a guardrail system in violation of 29 C.F.R. § 1926.502(b);
- c. violated 29 C.F.R. § 1926.502(b)(3) in that it failed to provide a guardrail system capable of withstanding, without failure, a force of at least 200 pounds applied within two inches of the top edge, in any outward or downward direction, at any point along the top edge;
- d. failed to designate or provide a competent person to monitor the safety of other employees, in violation of 29 C.F.R. § 1926.502(h)(1);
- e. failed to provide a safety monitor competent to recognize fall hazards in violation of 29 C.F.R. § 1926.502(h)(1)(i);
- f. caused or required workers, including the plaintiff, to work in hazardous conditions, in violation of 29 C.F.R. § 1926.20(a);
- g. failed to provide adequate safety programs, jobsite inspections, or worker training in violation of 29 C.F.R. § 1926.20(b);
- h. failed to post visible warning signs in violation of 29 C.F.R. § 1926.200(a);
- i. failed to provide adequate fall protection around the elevator shaft pit;
- j. failed to provide a guardrail of sufficient strength and construction;
- k. failed to inspect the guardrail at the elevator shaft pit;
- l. failed to discover or remedy the defective guardrail;
- m. failed to provide a safety monitor competent to recognize fall hazards;
- n. failed to designate a competent person to oversee the safety of welders including the Plaintiff;
- o. failed to ensure that the elevator shaft pit was protected on all exposed sides by railings;

- p. failed to provide a guardrail capable of withstanding, without failure, the force of workers, such as the Plaintiff, leaning on or pushing against it;
- q. failed to warn the Plaintiff of the presence of a defective safety railing in close proximity to where he was working;
- r. failed to inspect the area near the elevator shaft for hazards to workers, including the Plaintiff;
- s. failed to repair the dangerous condition of the guardrail;
- t. knew or should have known that the guardrail was not properly secured and in a dangerous condition, especially to workers such as the Plaintiff, yet failed to warn them of the dangers;
- u. caused or allowed subcontractors' employees to work in areas in which they could be seriously injured;
- v. failed to follow its own safety plan, policies or procedures regarding guardrails; and
- w. failed to take reasonable precautions to protect the Plaintiff from the risk of foreseeable injury.

7. As a direct and proximate result of the negligence and carelessness of the Defendant, as aforesaid, the Plaintiff fell approximately ten feet into the bottom of a pit, suffering numerous serious injuries including, but not limited to: blunt traumatic head injury with loss of consciousness and intracranial bleeding; traumatic brain injury with cerebral hemorrhaging; left temporal bone complex fracture; multiple rib fractures; fractures at C-7 and T-9; multiple contusions and abrasions; and cervical, thoracic and lumbar sprains, all with associated pain, suffering, mental and emotional anguish and distress and scarring.

8. As a further result of the negligence and carelessness of the Defendant, as aforesaid, the Plaintiff was required to undergo and incur costs for medical care and treatment, including multiple

hospitalizations, x-rays, MRIs, diagnostic tests, medication, surgeries, therapy, and will be required to undergo additional treatment in the future.


9. As a further result of the negligence and carelessness of the Defendant, as aforesaid, the Plaintiff lost time from his employment and suffered lost wages and an impairment of earning capacity.

10. As a further result of the negligence and carelessness of the Defendant, as aforesaid, the Plaintiff suffered an impairment of his ability to enjoy life and participate in life's activities.

11. Some or all of these injuries and damages are permanent in nature or will last for an indefinite time into the future.

WHEREFORE, the Plaintiff demands fair, just and reasonable money damages.

THE PLAINTIFF  
Todd R. Symecko

By   
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Scott D. Camassar  
**The Law Firm of Stephen M. Reck, LLC**  
P.O. Box 431  
North Stonington, CT 06359  
860-535-4040  
860-535-3434 facsimile  
Juris No. 411900

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**STATEMENT OF AMOUNT IN DEMAND**

The amount in demand is greater than Fifteen Thousand and No/100 (\$15,000.00) Dollars, exclusive of interest and costs, pursuant to Section 52-91 of the Connecticut General Statutes.

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