

**REPORTED
"DECISIONS"
OMITTING CLIENTS'
AND/OR
DEFENDANTS' NAMES
ARE AS A RESULT OF
REQUESTS FOR
ANONYMITY.**

**KING vs.
SOUTHERN ERECTORS**

In the early morning of October 1, 1993, Tommy Joe King was working on the hydro pulper unit at the Port St. Joe Forest Products Company plant in Port St. Joe, Florida. Mr. King operated the "guillotine," which was used to chop large rejected paper rolls in half which were then recycled and re-used to make finished paper products. The paper rolls were placed on a roll table by a forklift and rolled forward prior to their being cut by the guillotine blades. The roll table and guillotine were elevated approximately 6' above the ground, and the design of the machinery forced workers such as Mr. King to stand next to the machine while operating it.

The roll table itself is approximately 10' wide and 30' long. It holds a number of rolls up to 5' in diameter and ranging in length from 10', which were stable and easy to control, to less than 2' long. The 2' rolls are still up to 5' in diameter, are very unstable, and are called "butt rolls." The only protection afforded the workers by the designers of this equipment was a 4" lip on either side to hold back the up to 60" in diameter rolls. The roll table was designed and built in about 1989.

The accident occurred when Mr. King was working alongside the roll table while it was being loaded. A co-worker who had previously been warned against this specific practice, attempted to overload the table by forcing additional rolls onto the table with a motorized forklift. His attempt to overload the table was with

such force that it caused all the rolls to move forward. A "butt roll" rolled up on a previously cut roll, came back down the table and jumped over the 4" lip falling onto Tommy King. That roll was later found to weigh 1,890 pounds.

The roll landed on Mr. King's lower back crushing his pelvis and upper left leg. The force of the great weight severed Mr. King's ureter and caused massive soft tissue damage to his left lower extremity. Because of the severe crush injuries Mr. King sustained, he required the implantation of a significant amount of hardware in his pelvis and leg. He also required numerous surgeries to remove the tissue that was destroyed by the weight of the paper roll. His initial hospitalization lasted over two months, and he has had to undergo a number of urologic, orthopedic, and vascular surgeries in an effort to ease his unrelenting pain and restore some function to his left lower extremity. His vascular system was so compromised that his doctors still are not able to rule out amputation of his left leg in the future.

The roll table and guillotine machinery were designed and manufactured by three companies, Rust Engineering & Construction, Inc. of Alabama; Voith Sulzer Paper Technology North America, Inc. of Wisconsin; and James Brinkley Company of Washington. These defendants have designed and manufactured paper processing equipment which is in use all over the world. However, they failed to follow the most basic engineering, safety, and guarding standards in designing this machinery. The manufacturers defended this case not only by alleging that their machine was designed correctly and safely, but also by blaming Mr. King, his employer, and his co-workers for the accident.

Attorney William A. Norton was confronted with the defense of the mill, the mill's employees and the plaintiff's negli-

gence under the *Messmer and Fabre* decisions. The defendants were able to produce documents indicating the prior warning issued against the co-worker for overloading the table, as well as substantial testimony from co-workers and management level employees that rolls had fallen off of the table for years previous to the incident involving the plaintiff.

Evidence was introduced that the mill had failed to call these problems to the attention of the defendants and did nothing to remedy the situation. Accordingly, the defendants sought, under *Messmer and Fabre*, to apportion fault on the verdict form amongst the plaintiff, his co-workers and the mill itself for the failure to correct dangerous practices and a dangerous condition. Some of the plaintiff's own co-workers testified that the plaintiff was negligent for having his back to the machinery while in operation. In this case, even though the employer and the co-employees would be put on the verdict form, the immunity afforded by the Workers' Compensation Statute would not allow the plaintiff to sue them.

After protracted litigation, and on the heels of successful depositions of the defendants' corporate representatives, the case was mediated by Mr. Norton successfully for a total settlement of \$1,036,000. The Kings were able to place a significant portion of the settlement in an annuity which will provide income and security for the family throughout Mr. King's lifetime. ■

**"Never doubt
that a small group of
thoughtful, committed
citizens can change the world;
indeed,
it's the only thing
that ever does."**

-- Margaret Mead