



PRODUCT LIABILITY--MACHINERY CRUSHES TEEN'S LEG--TAZEWELL COUNTY HIGH
(11 Au/1) *Dustin Stone v MiTek Industries Inc. v C.I.T. Industries Inc.* 08L-155 Tried Aug. 15-26, 2011 (11)

Verdict: \$13,544,173 (\$157,173 past medical expenses; \$3,387,000 future medical expenses; \$5,000,000 pain & suffering; \$1,000,000 disfigurement; \$4,000,000 disability). The jury apportioned liability 0% v pltf, 71% v MiTek, and 29% v 3rd party deft/employer CIT. The jury also answered a special interrogatory, finding that the Roof Glider was in an unreasonably dangerous condition when it left the control of MiTek.

Judge: Paul Gilfillan (IL, Tazewell 10th Jud Cir)

Pltf Attys: Bruce R. Pfaff and Matthew D. Ports of *Pfaff & Gill* (Chicago) for Stone Demand: \$4,000,000 - \$9,000,000 high/low Asked: \$13,157,173 - \$13,544,173

Deft Attys: Mark D. Hansen of *Heyl, Royster* (Peoria) for MiTek Industries Inc. (Zurich) Offer: \$5,000,000, John J. O'Connor of *Knell & O'Connor* (Chicago) for C.I.T. Industries Inc. (Accident Fund; Cincinnati Insurance)

Pltf Experts: John Mroszczyk, Ph.D., Northeast Consulting Engineers Inc., 74 Holten St., Danvers, MA (978-777-8339) (Safety), Charles Linke, Ph.D. (Economist) and John W. Michael (Prosthetist) for Stone

Deft Experts: Dennis Brickman, P.E. (Mechanical Engineer) for MiTek Industries Inc., John Meyer, Ph.D., ITC Experts, 1019 Airpark Drive, Sugar Grove, IL (630-556-9707) (Mechanical Engineer) for C.I.T. Industries Inc.

Nov. 10, 2008, pltf M-19 was employed as a truss builder at C.I.T. Industries in Deer Creek, IL, working on a MiTek Roof Glider machine. The Roof Glider was a 100-ft long trackless roof truss roller press system comprised of work tables upon which a gantry rolled roof trusses. Pltf's job involved hammering metal plates into wood trusses laid out on the table. In the usual course of events, a worker would get on the operator's platform of the gantry and drive the gantry over the truss, compressing the metal plates to make the truss secure. The operator was expected to make sure the aisles between the tables were clear of all workers before driving the gantry. However, on the date of the occurrence, the operator failed to make sure the tables were clear and he drove the gantry towards the pltf, who was between the tables. Pltf tried to get out of the path of the gantry by moving down the aisle, but he was unable to get entirely out of the way. The gantry trapped and crushed his left femur against a metal rail on the machine, causing it to explode. As a result, pltf required an above-knee amputation of his left leg. Just before the gantry came upon him, pltf pushed the safety bar that was supposed to immediately shut down the gantry, but it failed. Had the safety bar functioned, he would not have been injured. MiTek designed and manufactured the Roof Glider machine, which it first sold in 1998. At that time, the safety bar was welded to pivot arms suspended three feet in front of the leading edge of the gantry. There were no reported failures of that design. In 2001, MiTek's new chief of engineering redesigned the safety bar by attaching it to the pivot arms with C-collars and screws. The machine at C.I.T. was purchased in 2005 and had the new design. Pltf contended MiTek failed to test this new design, failed to perform fault tree analysis or failure mode effects analysis of the design, and failed to realize that the normal vibration of the Roof Glider during use could cause the screws on the C-collar assembly to loosen, leaving the safety bar prone to failure. Within hours of the incident, pltf's supervisor (the general manager of C.I.T.) examined the safety bar, found the screws were loose, and discovered the failure mode that led to pltf's crushing injury. Subsequent examinations by engineers on behalf of all parties concluded that the looseness of the C-collar screws on the safety bar led to the device's failure to stop the moving gantry. Pltf asserted the Roof Glider's design was unreasonably dangerous due to the lack of effective point-of-operation guarding. MiTek maintained its design was reasonable. The defense for MiTek argued that pltf's assumption of risk, the employer's failure to maintain the guard, and the employer's vicarious liability for the machine operator's inattention were all causes of the occurrence. Pltf is now working as a restaurant cook (no LT claimed). The settlement demand and offer listed above both included comp lien waivers. The jury reportedly deliberated for 9 hours over 2 days. This is the highest Tazewell County verdict in Illinois Jury Verdict Reporter records.