

\$2.625-Million Settlement for Union Carpenter

DENVILLE, NJ

Christopher Musmanno, attorney for Michael Limper of Brick, NJ, in the matter of Michael Limper vs. unnamed General Contractor, Schindler Elevator Corp, and other persons, partnerships and or corporations, announces a Personal Injury settlement of \$2.625 Million for his client reached on January 13, 2010. Mr. Limper, thirty-four years old at the time, was the victim in a construction accident on April 22, 2006, in which he was critically injured after falling into an escalator pit. The pit was approximately 8 feet wide, 15 feet long and 4 feet deep. The temporary lighting at the site was alleged to be poor and the floor was alleged to be scattered with debris and construction materials. On the day of the accident, a Saturday, an inexperienced project engineer was left to supervise the work site. The escalator pit had previously been guarded by wooden barriers, which had been removed to provide access to the ceiling area above for installing a top track for stud walls. The escalators had been delivered the previous day and had been placed on rolling dollies and placed over the pit where the previous guarding had been removed. Mr. Limper was unaware that the escalators positioned over the pit were rolled away because he was working in another area of the building. At the end of the day, as he walked toward a gang box to store his tools as he was directed to do, he stepped into the uncovered pit in the floor, fell and was severely injured. Mr. Limper was admitted to Somerset Medical Center with a complex comminuted fracture (a fracture in which bone is broken, splintered or crushed into a number of pieces) of the distal tibia extending to the ankle joint with a marked distortion of the ankle joint. In addition, he suffered a widening of the lateral ankle joint due to the injury. Mr. Limper's injuries required a number of complex and painful operations:

- His first surgery involved a complex procedure to repair his ankle.
- The second surgery addressed the injury to an extremely comminuted right distal tibial fracture and other work on the ankle and pin sites.
- He was re-admitted to Morristown Memorial Hospital to undergo another operation to address an infected wound with acute osteomyelitis (bone infection) of the right ankle fracture.
- The infection reoccurred and required additional surgery.

Finally, due to continuing complications, on October 26, 2006, his doctors concluded they would be unable to save his right leg. After numerous painful surgeries, Mr. Limper ultimately underwent an operation to amputate his right leg below the knee at Morristown Memorial Hospital. Later, Michael Limper developed Multiple Sclerosis following his traumatic amputation. His doctor advised that, in the absence of prior symptoms, it is likely that Mr. Limper's Multiple Sclerosis was "brought on" or exacerbated by this injury. An OSHA expert (Occupational Safety and Health Administration) reported that the cause of the accident was a failure to properly safeguard a hole in the floor on the construction site. OSHA requires that the general contractor has overall responsibility for safety at a construction site, and on the day of the accident, the guards in place around the escalator pit were removed prior to the escalators being placed over the pit. OSHA further determined that the use of escalators resting on wheeled dollies as guards is also a violation of OSHA. Using equipment on wheels as a guard only invites workers to wheel the equipment out of the way. The plaintiff's expert reports and witnesses provided deposition testimony attesting to multiple failures on the part of the defendants to properly implement safety and health management programs and to properly schedule the work at the job. The settlement of \$2.625 Million reached on January 13, 2010, and was intended to compensate Mr. Limper for the past, present and future pain, suffering and disability, which he sustained as a result of this accident. Mr. Musmanno is Counsel at the firm of Einhorn, Barbarito, Frost & Botwinick, PC, and concentrates his practice in Personal Injury litigation. He concentrates in personal injury matters with a specific concentration in automobile, slip-and-fall and workplace accident cases. With extensive experience in civil trials, Musmanno has developed a strong track record in representing clients as plaintiffs in the above-described areas. He obtained his J.D. in 1988 from Seton Hall University School of Law, Newark. Musmanno was admitted to the New Jersey and Pennsylvania bars in 1988 and the New York bar in 1995. Contact Chris Musmanno at [973-627-7300](tel:973-627-7300).