



Press Brake Hand Crush Verdict Upheld

On March 22, the U.S. Court of Appeals for the Seventh Circuit upheld a \$450,000 jury verdict for a worker whose hand was crushed in a press brake, determining that the machine was unreasonably dangerous under Illinois law. The case is entitled *Romero v. Cincinnati, Inc.*, U.S.C.A.: 98-2303 (3/22/99).

The plaintiff operated a multi-

purpose press brake for his employer, who was not involved in the civil action. He brought a civil suit against the machine manufacturer after he suffered a crushed hand in the press brake after working at his employer's facility for only a few months. The press brake involved in the civil action reportedly had a wide range of capability and had 75 dials for different functions. An experienced setup person set up the machine; operators at the employer's facility did not handle setup.

This particular press brake had both foot and palm buttons to initiate machine functions, but use of

one type of switch required that the other be turned off. The use of palm buttons was viewed to have been safer because both hands must remain on the palm buttons during the machine activation. However, the facts presented to the jury were that, since operators need to use their hands to hold or guide the material during bends, the press brakes frequently are operated by foot pedal switches for approximately 80 percent of the time of usage.

Devices noted by the appeals court that could have been used were light curtains, movable and fixed barriers, and wrist restraint devices.

The press brake in question had none of these safeguards present. The injured employee was feeding a piece of metal approximately ½ in. wide and 1 ft. long when his hand was caught under the ram. He sued the third-party machine manufacturer under strict product liability alleging that the brake was unreasonably dangerous. There was a dispute among the expert witnesses in the case, which went up on appeal over the machine manufacturer's claim that the plaintiff's expert gave contradictory testimony.

Those challenges to the expert witness were not victorious in the appeals court. The court allowed the trial judge to instruct the jury that the machine manufacturer had a non-delegable duty to make a safe product. They appeared to base that on ANSI standards, which call for requirements for the construction, care and use of press brakes.

On the OSHA front, the agency has stepped up its enforcement against press brakes following issuance of its press brake safety directive issued last year. If you would like a copy of the OSHA directive, please call our office at 800/468-3464 or PMA at 216/901/8800. **MF**

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Questions and comments are welcome.

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