

# The Legal Intelligencer

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## Phila. Jury Awards \$9 Mil. in Laborer's Ladder Accident

BY GINA PASSARELLA

*Of the Legal Staff*

A Philadelphia jury awarded a man \$9 million this week for injuries he suffered after he fell off a ladder.

In *Brown v. Sun Co. Inc.*, Patrick Brown was employed as a laborer and "hole watch" in Sun Co.'s south Philadelphia refinery when he slipped off of a ladder in the rain and fell approximately 10 feet, hitting his head on a pipe before falling onto his back, according to court documents.

Brown argued that a safety cage was removed from the ladder prior to his using it, and that if it had been there, he would not have fallen, according to court documents.

Sun, now known as Sunoco, argued that the safety cage had never been removed, bringing in a metallurgist to examine the welds on the cage system, according to court documents.

The case was heard before Philadelphia Common Pleas Judge Nitza I. Quinones Alejandro. Opening statements were heard Jan. 17. After almost four hours of deliberations, the eight-member jury found Sun to be negligent on Jan. 24, according to Brown's attorney, solo practitioner John T. Dooley of Pennsauken, N.J.

According to court documents, Brown's original demand was \$1 million, and there was no pre-trial offer from the defendant.

Dooley said Sun offered \$25,000 during the trial, receiving a reprimand from Alejandro, who said the

defendants would be in trouble if the jury came back with a verdict.

Sunoco spokesman Gerald Davis said the company does not comment either way on proposed offers or settlements.

There was no high-low offer before the jury went into deliberations, Dooley said.

Dooley said that at one point during the deliberations, the jury asked a question about medical bills.

"They were obviously past the negligence stage," Dooley said, surprised that there was no offer then.

The jury was polled, and came back with a unanimous verdict, Dooley said.

After talking with the jury, Dooley said that one of the jurors told him "the proof was in the pudding."

He said the jurors believed that there was no way Brown, who has not been back to work since the 2002 accident, would have been able to fall if the safety cage was there.

Brown, now 35, has three herniated discs and suffered a closed head injury at the time of the accident, Dooley said.

According to court documents, Brown's liability expert, Stephen A. Estrin of Florida, testified that Brown's fall was "Sunoco's failure to ensure that the fixed ladder providing access from the fifth level deck/catwalk to the cross-over riser deck was equipped with fall protection."

According to court documents, Sun's engineering expert, William Daley of Annapolis, was going to testify that "not only was the safety cage not removed, but had it been removed,

it would not have contributed to plaintiff's fall."

The metallurgist expert, Douglas Townsend of Maryland, said that "the welds were original based to the galvanizing and, accordingly, the safety cage was not removed," court documents stated.

Davis said the company is very disappointed with the award in this case.

"The facts of the case did not support this verdict," Davis said. "Despite overwhelming evidence to the contrary, the jury chose to ignore that evidence" and award much more than Brown's demand.

Davis said the company plans to "pursue an aggressive appeal."

Dooley said he is currently in the process of seeking delay damages.

Contracting company Glasgow Inc. was originally named as a defendant in this case. After the plaintiffs presented their case, Glasgow was dismissed because it was found to be Brown's actual employer, according to Dooley.

The firm of Bodell Bove Grave & VanHorn in Philadelphia represented Sun in this case.

This is not the first negligence case Dooley has had against Sunoco.

Dooley reached a \$2 million settlement with Sun after a union laborer suffered a shoulder injury when a 50-pound wooden scaffold fell on him from above at the same refinery that is involved in the Brown case.

The settlement was reached at the end of December, shortly before the trial in *Causland v. Sun Co. Inc.* got under way, Dooley said at the time. •