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Scaffold collapse payout: \$75 million

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A \$75.2 million global settlement was announced Wednesday in the litigation stemming from a scaffolding accident at the John Hancock Center in 2002 that resulted in the deaths of three women and injuries to six other people.

The settlement on behalf of 12 plaintiffs, including three husbands who filed loss of consortium claims, was finalized shortly before trial was set to begin in front of Cook County Circuit Judge William D. Maddux, the attorneys added.

The parties finalized the agreement on Monday following 19 mediation sessions since May 2004, said Donald P. O'Connell, the former chief judge in Cook County, who mediated the talks.

"This event should have never occurred in what the world knows to be the Windy City," plaintiff attorney Robert A. Clifford of Clifford Law Offices said in a telephone interview Wednesday.

On March 9, 2002, a large construction scaffold, weighing about 10,000 pounds, broke loose on the 42d floor of the high rise building at 875 N. Michigan Ave. Debris fell to Michigan Avenue and other nearby streets.

Wind gusts were above 55 mph and the National Weather Service had issued a high-wind advisory, said Thomas A. Demetrio. Corboy & Demetrio P.C., the Chicago firm in which he is a principal, and the Clifford Law Offices jointly represented seven plaintiffs in the case.

Plaintiff attorneys held a Wednesday afternoon press conference to announce the settlement.

Pieces of the scaffold smashed three cars. In one of the vehicles, cousins Jill Nelson, 27, of Kansas, and Melissa Cook, 29, of

Chicago, were killed, while their mothers, Linda Demo and Betty Semplinski, who were in the back seat, were injured.

Michelle Whitaker and her mother, Peggy Whitaker, were in another of the cars. Peggy Whitaker suffered catastrophic injuries that rendered her a quadriplegic and she died on July 18, 2005. Her death is believed to have been caused by injuries suffered in the accident, Clifford said.

Nanatta Cameron, 39, who was in another car, also died in the accident. Cameron's estate is represented by Chicago lawyer James D. Montgomery.

The scaffold should have been brought to the top or bottom of the building during the high winds, according to federal standards and operation manuals, Demetrio said.

"Unfortunately, it took this tragedy for the construction world to place safety above all other things," Demetrio said.

The victims' families requested that their settlement amounts not be disclosed, Clifford said.

There were 14 defendants in the case, including Beeche Systems Corp., the manufacturer of the scaffolding system, and AMS Architectural Technologies Inc. of Illinois, the operator of the scaffolding, along with Shorenstein Management Inc. and several related entities that make up the commercial owner of the Hancock Center. *Linda Demo, et al. v. Shorenstein Management Inc., et al.*, No. 02 L 3109.

In addition to the \$75.2 million for tort claims, the settlement provides another \$1.6 million for reimbursement of property damage and subrogation claims, Clifford said.

Beeche Systems and AMS Architectural Technologies will each contribute \$26 million toward the settlement, with the

Shorenstein defendants paying \$8.6 million, according to the plaintiff attorneys.

"Shorenstein knows that the accident of March 9, 2002, had a terrible effect on the families of those killed and those who were injured," R. Bruce Duffield, a Lord, Bissell & Brook LLP partner representing the Shorenstein defendants, said in a telephone interview. "We are gratified that they will receive substantial compensation for this tragedy."

Peter C. John, a principal of Williams, Montgomery & John Ltd., representing Beeche Systems, said Wednesday that it is difficult to predict a verdict amount in a case involving deaths and significant injuries.

"Therefore, we believe the payment of \$26 million was reasonable under these circumstances," John said.

The case resulted in more than 130 depositions, hundreds of motions and numerous mediation sessions and meetings with the defendants and their insurers, O'Connell said by telephone Wednesday. There were complex insurance coverage issues, complex facts and a number of challenging legal issues to be dealt with, O'Connell added.

"This undoubtedly was the most complicated mediation that any of us participated in," said Clifford, whose partner, Timothy S. Tomasik, also represented plaintiffs.

Clifford, Tomasik and Demetrio "were masterful in their massive effort marshaling the facts and posturing the cases to the benefit of all the plaintiffs," O'Connell said.

Joseph J. Miroballi and Albert E. Durkin, principals of Miroballi, Durkin & Rudin in Chicago, represented Kim Bohstedt, who also was injured in the accident. Michael Carbonara, another injury victim, was represented by Timothy P. Rhatigan with Goldberg, Weisman & Cairo Ltd. in Chicago.