

Chicago Daily Law Bulletin®

Volume 159, No. 189

Man's estate to get \$3.2M from ComEd

Power lines killed painting company worker in 2008

BY MARC KARLINSKY
Law Bulletin staff writer

Commonwealth Edison and an equipment-rental business have agreed to pay \$3.2 million to settle a lawsuit filed on behalf of a man fatally electrocuted by overhead power lines.

Cook County Associate Judge William Edward Gomolinski entered a dismissal order Monday approving the settlement in the wrongful-death case of Javier Valadez, who died after coming into contact with 12,000-volt cables as he was working beneath a bridge in northwest suburban Elgin.

Valadez's estate sued ComEd, as well as Hertz Equipment Rental, the company that leased the lift Valadez was using.

The parties came to their settlement in August following mediation before Stuart A. Nudelman, a neutral at ADR Systems of America and a former Cook County circuit judge.

On June 11, 2008, Valadez, 31, and his co-worker were in a lift bucket sandblasting the underside of the U.S. Route 20 bridge over the Fox River in Elgin. When they came into contact with a group of electrical cables, both were electrocuted and killed.

Earlier that month, Valadez's employer, Lansing-based Eagle Painting & Maintenance Co. called ComEd's customer service line several times to request their power lines be made safe enough for Eagle's workers to operate safely, either by turning off the power to the lines or by



Edward G. Willer

insulating the cables in protective covers.

But there was confusion among ComEd's service representatives on how to process a "make-safe" request, said Edward G. Willer, an associate at Corboy & Demetrio P.C. who represented Valadez's estate. They were particularly unsure because the space below the bridge didn't have a definitive street address to direct ComEd crews to, he said.

At one point, a ComEd representative told Eagle that the request to make the lines safe had been fulfilled, Willer said. After depositions of the service representatives, Willer found the procedures were inconsistent and unclear at ComEd.

"No two of the representatives knew the written protocols for what you're supposed to tell a client," Willer said.

In addition, a few days before the accident, a ComEd repairman was fixing a power outage a few hundred yards away from where the lift was and became aware of the location where Eagle would work, Willer said.

ComEd was represented by John W. Bell and Charles P.



John W. Bell

Rantis, shareholders at Johnson & Bell Ltd. Bell said the areawide storm damage created a "real service crunch" for the utility and that the location of the cables prevented them from being insulated or turned off.

Rantis said the lines led to a nearby sewage treatment plant operated by the Fox River Water Reclamation District, which couldn't have a power interruption.

Bell said Eagle would have needed to enter ComEd's service queue before work was done.

"De-energizing lines is a lengthy process," Rantis said. "A lot of engineers have to get involved."

But Willer said ComEd's explanation of engineering challenges was an excuse for not fulfilling the job request in the first place. The storms didn't effect customer service, he said.

Just before the accident, he said, Eagle's foreman left the worksite, warning Valadez and the other worker — who happened to be the foreman's brother — not to get close to the cables.

Park Ridge, N.J.-based Hertz Equipment Rental was sued because it didn't make the lift's



Charles P. Rantis

users familiar with the safety features and warnings required by the American National Standards Institute.

As a result of the settlement, ComEd will pay Valadez's estate \$3.2 million and Hertz will pay \$25,000. Eagle agreed to waive a lien of \$243,000 against the estate and would continue paying workers' compensation benefits through the end of this year.

Thomas P. Boylan and Erik L. Andersen, partners at Cassiday, Schade LLP, represented Eagle Painting & Maintenance Co. Boylan said his client lost two valuable employees in the accident, but it was glad to put the situation behind it.

A separate settlement was reached with the estate of the other Eagle employee who was killed in the accident.

Bell said he believes all parties are happy with the resolution.

Hertz Equipment Rental was represented by Gerald P. Cleary, a partner at Pappas, O'Connor & Fildes P.C.

The case is *Leonor Valadez v. Commonwealth Edison Co. and Hertz Equip. Rental Corp.*, No. 08 L 7199.