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## Record Setting Settlement Announced

(\$23 million awarded for injuries causing paralysis)

HOUSTON - On August 3, 2009, the 2<sup>nd</sup> Judicial District Court of Cherokee County, Texas approved a record setting settlement totaling \$23,215,206.57 for a 32 year old man who suffered paralysis when a defective air jack exploded while he was performing routine maintenance at the Stryker Creek Power plant in Cherokee County. According to *Verdict Search*, the settlement is the largest reported settlement in the United States involving a single individual suffering from quadriplegia.

On October 31, 2007, then 30 year old Joshua Goodson suffered near fatal injuries when an industrial inflatable air jack manufactured by Molded Products Company and designed and sold by Air Jack Hydraulic exploded while he was repairing and fabricating boiler tubes in the super heater section of a boiler room at the Stryker Creek Power Plant owned by Luminant Generation Company, LLC. Goodson and his crew were employees of Fluor Daniel, an independent contractor hired to provide maintenance of the boilers at the plant. In order to perform the work, Goodson was required to separate tube assemblies within the boilers to allow him to crawl in between them. An industrial air jack, was provided by Luminant and utilized by Goodson's crew to spread the tube assemblies. While Goodson was performing his duties, the air jack exploded striking him in the head and back and paralyzing him from the chest down.

On December 28, 2007, Goodson, along with his wife and daughter, filed suit asserting a products liability claim against the air jack's designer/seller (Air Jack Hydraulic) and its manufacturer (Molded Products Co.). The suit also asserted a premises liability claim against the landowner (Luminant). The two product Defendants defended the lawsuit claiming that the

air jack was neither defectively designed nor defectively manufactured as maintained by Goodson and his family. They also claimed that Goodson's injuries were the result of misuse of the product. The Defendants to the lawsuit also maintained that Goodson's claims were barred by Texas' 15 year statute of repose. Luminant further defended the case claiming it owned no duty to Goodson or his crew.

Discovery conducted by Plaintiffs revealed that the air jack in question was designed and manufactured using a nylon—rather than a Kevlar—cord reinforcement. Kevlar is required by industry standards. Discovery further revealed that : 1) nylon was 20 times cheaper than Kevlar, and the substitution of the inferior material increased the manufacturer's profit margin from 25% to 139% on the large air jacks; 2) the manufacture of the newly designed nylon industrial air jacks was more than a year and a half behind the projected release date and Defendants were rushing the air jack into production; 3) the 73 ton industrial air jack was not adequately cycled tested and never burst tested before being released to the market; and 4) by 1995, twelve years before the catastrophic injury of Joshua Goodson, the manufacturer and seller were on notice that the air jack had a propensity to explode and was unreasonably dangerous to users and those in the vicinity of its use.

Plaintiff developed additional evidence of a manufacturing defect through destructive testing and laboratory examination of the remnants of the exploded air jack. Microscopic examination showed that the air jack was manufactured with a defective inner bladder that allowed air to dangerously migrate into the nylon cord reinforcements causing the catastrophic failure. Defendants denied all of these claims.

In preparation for trial, Plaintiff utilized 11 different experts to address the multiple liability and damage aspects of the case, as well the testimony of Mr. Goodson's treating physicians. Nineteen (19) months after filing, the case settled on the eve of trial for the total amount of \$23,215,206.57. The settlement consisted of a cash payment of \$21,850,000.00 and a release of all accrued worker's compensation liens totaling \$1,365,206.57. Settlement was reached

after three separate mediations using two different mediators. All Defendants and the worker's compensation carrier contributed to the overall settlement.

The lawyers handling the case for the Plaintiffs were Jacques G. Balette and David Marks with MARKS, BALETTE & GIESSEL, P.C. in Houston, Texas and David Hill in Henderson, Texas. The lawyers at MARKS, BALETTE & GIESSEL, P.C. have obtained jury verdicts in excess of \$390,000,000.00 for their respective clients in cases tried throughout The United States. For more information about this firm and their results, please see their website at [www.marksfirm.com](http://www.marksfirm.com).