

TEXAS REPORTER®

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Fall from Concert Lighting Tower—Failure to Provide Adequate Fall Protection, Training and Instruction—\$1,311,000.00



JUDGE SUSAN CRISS
COURT: 212TH
JUDICIAL DISTRICT
CAUSE NO: 02CV0039
GALVESTON COUNTY
GALVESTON, TEXAS
DATE OF VERDICT: 6/20/03

Rigel Piper

vs.

Bandit Lites, Inc.; Steve Vernon Rigging a/k/a S.V.R.;
Garth Brooks, Individually; New Rose, Inc.; Glen Smith
Production Services; Pro West; and Brown-United, Inc.

PLAINTIFF COUNSEL: SMITH ★ GIBSON LAW FIRM,
A PROFESSIONAL CORPORATION from Houston,
TX, By: Mr. Jason A. Gibson (Lead Counsel)

PLAINTIFF COUNSEL: SMITH ★ GIBSON LAW FIRM,
A PROFESSIONAL CORPORATION from Houston,
TX, By: Mr. Russell Endsley

PLAINTIFF COUNSEL: SMITH ★ GIBSON LAW FIRM,
A PROFESSIONAL CORPORATION from Houston,
TX, By: Mr. David Minces

DEFENDANT COUNSEL: RAMEY, CHANDLER,

MCKINLEY & ZITO, P.C. from Houston, TX, By: Mr.
Nicholas E. Zito for Bandit Lites, Inc.

DEFENDANT COUNSEL: HEARD & MEDACK, P.C. from
Houston, TX, By: Mr. Joseph M. Heard for Steve Vernon
Rigging a/k/a S.V.R.

DEFENDANT COUNSEL: HEARD & MEDACK, P.C. from
Houston, TX, By: Ms. Bridget R. Brinson for Steve Vernon
Rigging a/k/a S.V.R.

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TYPE OF CASE: Fall from Concert Lighting Tower - Failure to Provide Adequate Fall Protection, Training and Instruction

SUMMARY: On November 26, 2001, Rigel Piper fell approximately 36 feet while trying to climb a 50 foot lighting tower and suffered significant injuries, including a ruptured spleen which had to be removed. Mr. Piper (who was 19 years old at the time) was part of a larger group of stagehands that were brought in from Albuquerque, New Mexico to help set up for the Garth Brooks concert which took place on November 28, 2001 in South Padre Island, Texas.

Specifically, Mr. Piper was brought to South Padre Island on behalf of Steve Vernon Rigging (S.V.R.), where he became a part of the "unskilled labor pool." The morning of his fall, Mr. Piper was instructed by S.V.R. to work with Bandit Lites, Inc., which provided most of the lighting equipment for the concert.

Around 10:30 a.m., Bandit Lites personnel retrieved stagehands from the "unskilled labor pool" to help place spotlights on top of the 50 foot scaffolding tower from which Mr. Piper fell. Mr. Piper was instructed by Bandit Lites personnel to put on a safety harness and climb the tower. No other instructions were given and no retractable lifelines were provided. Mr. Piper made it approximately 36 feet up the tower before free-falling to the ground.

Bandit Lites and S.V.R. agreed Mr. Piper, as a stagehand, should have never been allowed, much less instructed to climb the tower. However, both defendants disputed it was their responsibility to keep Mr. Piper from climbing the tower. In addition, both defendants claimed they did not have a duty to properly train or instruct Mr. Piper on the proper use of fall arrest safety equipment.

Bandit Lites and S.V.R. failed to follow applicable industry standards, OSHA regulations and their own safety policies and procedures. Mr. Piper was never instructed or told not to climb over 6 feet off the ground. Likewise, Mr. Piper was never instructed or trained on how to use the harness he was given or how to properly climb the tower. Lastly, retractable lifelines were not provided until after the fall occurred.

As a result, Mr. Piper had to be life-flighted to Valley Regional Hospital where he spent his 20th birthday recovering from his injuries. Mr. Piper remained in the hospital until December 12, 2001 and was subsequently taken by air ambulance to Health South Rehabilitation in Albuquerque, New Mexico, where he remained until De-

cember 24, 2001.

INJURIES: Fractured Pelvis, Collapsed Lung, Broken Rib and Ruptured Spleen (requiring removal)

MEDICAL TREATMENT: Thoracostomy, Laparotomy, Arthroscopic Debridement, Arthroscopic Biceptenodesis, Splenectomy, Physical Therapy

PLAINTIFF EXPERTS:

- William W.R. Purcell, PE, CSP - Professional Engineer and Certified Safety Professional - Scaffolding Safety, OSHA Regulations and Industry Standards Regarding Fall Protection - Purcell Safety Engineering - College Station, TX - live
- Dr. Edward J. Septimus, M.D., F.A.C.P. - Internal Medicine & Infectious Diseases - Infectious Diseases Consultants, P.A. - Houston, TX - live

DEFENDANT EXPERTS:

- John Sexton, P.E., C.S.P. - Hydrocarbon Environmental and Safety Consultants - Kingwood, TX - for Bandit Lites, Inc. only
- No medical experts called by Bandit Lites, Inc. or S.V.R.

DEFENDANT'S DEFENSES: Defendant argued proportionate responsibility (blaming other settling Defendants and Plaintiff).

PRE-TRIAL MEDIATION AND SETTLEMENTS: The case was mediated by Nancy Huston on November 20, 2002. Between mediation and trial, Plaintiff settled with Garth Brooks, New Rose, Inc., Glen Smith Productions, Brown-United, Inc. and Pro West for a total of \$303,000.00. The case was tried against Bandit Lites, Inc. and Steve Vernon Rigging a/k/a S.V.R., the two remaining Defendants.

PRETRIAL OFFERS MADE BY DEFENDANTS:

Bandit Lites, Inc.: \$20,000.00

Steve Vernon Rigging (S.V.R.) \$0- No Offer to Settle

VERDICT BREAKDOWN:

Physical pain and mental anguish sustained in the past:
\$ 75,000.00

Physical pain and mental anguish that, in reasonable probability,
Rigel Piper will sustain in the future: \$ 30,000.00

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Disfigurement sustained in the past: \$ 1,000.00

Disfigurement that, in reasonable probability,
Rigel Piper will sustain in the future:
\$ 5,000.00

Physical Impairment sustained in the past:
\$ 500,000.00

Physical Impairment that, in reasonable
probability,
Rigel Piper will sustain in the future:
\$ 250,000.00

Medical care in the past: \$ 150,000.00

Medical care that, in reasonable probability,
Rigel Piper will incur in the future:
\$300,000.00

Total: \$1,311,000.00

PROPORTIONATE LIABILITY:

Bandit Lites, Inc.	35%
S.V.R.	35%
Plaintiff	30%

Minus 30% proportionate responsibility
found by jury for Plaintiff Rigel Piper: \$917,700.00

Minus Settlement Credit of \$303,000.00 \$614,700.00

NET JUDGMENT W/O INTEREST: \$ 614,700.00

NET JUDGMENT WITH INTEREST & TAXABLE
COURT COSTS: \$ 720,690.39

BANDIT LITES, INC.'S PROPORTION (50%):
\$360,345.19

STEVE VERNON RIGGING'S PROPORTION (50%):
\$ 360,345.19

NOTES: Garth Brooks testified by videotaped deposition.

He was deposed on November 12 & 13, 2002 in Tulsa, Oklahoma. The verdict was 10-2, with two jurors refusing to sign the verdict because the amount being awarded was not enough and they did not agree with responsibility being apportioned to Plaintiff.

LENGTH OF TRIAL: Two Weeks

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