

# VERDICTSEARCH

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## WORKPLACE

Construction Site

Worker Fell From 10-Foot Scaffold, Landed on Head

Verdict Defense

Case Robert K. Unger and Cheryl Unger, his wife, Plaintiffs, and ACE Insurance Co., Intervenor v. Brand Scaffold Builders, Inc., No. 98-28423

Court Harris County District Court, 129th, TX

Judge S. Grant Dorfman

Date 4/15/2003

Plaintiff

Attorney(s) Alton C. Todd; The Law Firm of Alton C. Todd; Friendswood, TX (Cheryl Unger, Robert K. Unger)

Donald Francis Lighty; Stevens, Baldo & Freeman; Beaumont, TX (ACE Insurance Co. (intervenor))

Defense

Attorney(s) John Engvall, Jr.; Engvall & Hlavinka; Houston, TX

Facts Plaintiff Robert Unger, 55, a pipefitter, fell from a 10-foot-high scaffold on a job site in Baytown on Feb. 3, 1998. He claimed that he grasped a scaffold-pole to steady himself, but it was loose and hanging down, and he lost his balance. He and his wife, Cheryl, sued the scaffold provider, Brand Scaffold Builders, Pasadena, for negligence.

The defense argued that Unger violated rules by going up an untagged scaffold and that he caused the fall by standing in a dangerous position. Also, a co-worker of Unger's testified that he fell forward, which Brand argued would have made it impossible to reach the pole in question. In his deposition, however, Unger maintained that he fell backward.

ACE Insurance Co. intervened, asserting a workers' compensation lien of approximately \$250,000.

The intervenor's attorney was telephoned for comment, but did not respond.

Injuries fracture, arm; fracture, wrist; head; punctured lung

Unger fell from the 10-foot level of the scaffold and landed on his head. Besides a mild-to-moderate head injury, he broke both wrists and one arm and suffered a punctured lung. He was hospitalized and treated by a neurologist, an orthopedist, rehabilitation clinics and other providers.

He claimed past medical bills of about \$103,000. He was making about \$40,000 a year before the accident and did not return to work. He claimed \$200,000 in past lost wages and \$240,000 in future lost wages, to age 64.

Cheryl's claim was for loss of consortium and household services.

Result The jury found only Unger negligent.

Demand \$1.75 million demand taken off the table one day before jury selection, according to defense counsel; \$530,000 during trial

Offer \$150,000 two years before trial; no offer during trial

Trial Details Trial Length: 4 days

Jury Deliberations: 80 minutes

Jury Poll: 12-0

Jury Composition: 6 male, 6 female

Plaintiff

Expert(s) Ralph Lilly, M.D.; neurology; Houston, TX (records only; treater)

Ahmed A.H. Khalifa, M.D.; orthopedics; Houston, TX (video deposition)

Defense

Expert(s) None reported

John Schneider