

'Something Terrible Happened': \$2 Million Settlement Reached by Miami Attorneys

"This is a case where the law is designed against your client, and we were able to overcome those challenges, trigger insurance coverage, and get them a great result," said Michael Levine, a partner at Stewart Tilghman Fox Bianchi & Cain.

by **Michael A. Mora**

An attorney not involved in the litigation praised a multi-million-dollar settlement that two Miami lawyers announced Tuesday in a wrongful death case that closed less than three months after they filed the complaint in the Pinellas Circuit Court in Clearwater.

Ramon Malca, a solo practitioner and workers' compensation lawyer in South Florida, said it is not common to have facts stemming from an investigation that are strong enough to put the burden on an employer to come up with money from insurance coverage—apart from what it is obligated to pay under the workers' compensation policy.

Malca applauded the settlement that Miami lawyers Michael Levine and A. Dax Bello, partners at Stewart Tilghman Fox Bianchi & Cain, reached for the estate of Claude Bryant, who died after contact with an excavator that was electrified by overhead power lines.

Levine and Bello represented the estate against the decedent's employer, Portable Pumping Systems Inc.

"The takeaway would be to check carefully on the levels of coverage, and does the coverage that attaches to the employer extend to co-workers and managers who are in a position to have prevented the harm that caused the injury to the worker?" Malca said. "It's a combination of



Michael Levine (L) and A. Dax Bello (R) of Stewart Tilghman Fox Bianchi & Cain.

facts that align to prove that this was an intentional act, plus coverage that would attach based on those obligations."

The case dates to April 2020, when Hubbard Construction Co., the general contractor, and Portable Pumping, the subcontractor whom the plaintiff said was responsible for providing a safe job site, sought to dig wellpoints in connection with



The excavator that came into contact with the overhead powerlines.

a storm mitigation project, according to the complaint.

However, despite being aware of overhead powerlines, Portable Pumping and additional defendants failed to take action, such as ensuring that those powerlines were de-energized or insulated, before starting work on the job site, per the complaint.

Soon after work began, one of the defendants, Justin Cooper, deemed after an hour of working on the excavator that it was unsafe to continue to use the machine because of its proximity to the overhead powerlines, according to the Occupational Safety and Health Administration report.

But when Cooper exited the machine, Michael Floyd, a fourth defendant, continued to work despite allegedly being aware of the potential

consequences of his actions, the complaint alleged.

And when the excavator made contact with the overhead powerlines, Bryant, 46, who stood nearby, was either close enough or came in contact with the machine resulting in his death by electrocution, per the OSHA report.

Levine said workers' compensation is slanted towards protection for the employer. However, Levine explained that, "There are limited exceptions that allow you to go after the employer," and one of them is to bring causes of action against the "individuals directly involved in what happened."

"Count I of the complaint is where I pled my case against the decedent's employer," Levine said. "These allegations established that we could meet the exception to the workers' compensation immunity defense. But beyond that, we also targeted individuals that were working on the job site who we alleged were grossly negligent for what happened."

Now, Portable Pumping paid the entirety of the \$2

million settlement to resolve the claims that were alleged against all the defendants, based on the workers' compensation immunity defense Levine and Bello filed in the complaint.

And Levine said from an outside perspective, the plain facts set forth in the case appeared to be an easy negligence case. However, workers' compensation created a scenario where it was nearly impossible to bring that case.

"This is a case where the law is designed against your client, and we were able to overcome those challenges, trigger insurance coverage, and get them a great result," Levine said. "Our gut with this case was that something terrible happened that should have never happened, and we could not walk away from this."



Levine visits with family after resolving their case