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Essex Jury Awards \$2.5M to Worker Disabled When Hit by Moving Backhoe

An Essex County jury awarded \$2.5 million to a construction worker who suffered a disabling spinal injury when hit by a backhoe's open door at a home-building site.

According to the suit, *Frazier v. PTC Excavations*, William Frazier was struck as the vehicle moved forward at the Livingston site on Sept. 21, 2006. He alleged that the backhoe operator, independent contractor Pat McVicker, shouldn't have left the door open and that PTC Excavations, the subcontractor who hired McVicker, was responsible for his actions.

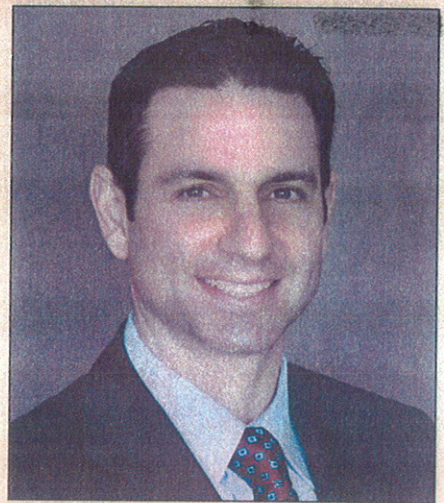
Frazier has been left totally disabled and in need of continued medical care, says his lawyer, **Todd Leonard** of **Leonard & Leonard** in

Morristown.

The jury found PTC responsible and awarded \$2.5 million on March 10. In a May 18 judgment, Superior Court Judge **Michael Casale** added more than \$400,000 in interest and for Frazier's fees and costs under the offer-of-judgment rule. Leonard says he submitted an offer of judgment for the defendants' full \$1 million in coverage; the defense rejected his \$900,000 settlement proposal and he rejected a proposed \$1 million/\$350,000 high-low agreement.

The workers' compensation lien is \$290,000, Leonard says.

Defense counsel **Joseph Kelley** of **Romando, Tucker, Zirulnik & Sherlock** in East Hanover did not



VERDICT FOR SERIOUS WORKPLACE INJURIES: The jury awarded \$2.5 million to **Todd Leonard's** client, hit by a backhoe door and rendered totally disabled.

return a call, but Leonard says the defense has filed a notice of appeal.

Leonard says the defense argued that the plaintiff, an experienced construction worker, bore some of the responsibility for the accident. The defense also suggested that the injuries were caused by pre-existing medical conditions and degeneration.

— *By Henry Gottlieb*