

Man accepts \$1.3M to end injury lawsuit

ADVANCE SUPREME COURT BUREAU

An Eltingville man has agreed to accept \$1.3 million to end his lawsuit in connection with a 1995 on-the-job accident that left him unable to continue working.

The plaintiff, identified in court papers as John Haines, settled a personal injury suit that was pending in state Supreme Court, St. George, before Justice William F. Mastro.

According to court files, on May 19, 1995, Haines was working as a carpenter for his employer, Bischoff Contracting Inc., on the construction of a townhouse and condominium development, Pondsides Greens, located on the South Shore.

Pondsides Greens, court documents show, was a development by Fred Goldhirsch of 71 two-story townhouse and condominium units.

The plaintiff reportedly was framing the second story of the development when he fell through an open and allegedly unguarded stairwell cut out from the second floor to the ground below.

As a result of his fall, Haines sustained multiple injuries, including a fractured nose and a fracture of his cervical vertebrae that required surgery.

Haines was 27 years old at the time of his accident and, according to court papers, remained unable to work due to his injuries.

The plaintiff's attorneys, the West Brighton law firm of O'Leary & McMahon, charged that Haines' injuries resulted in "significant lost earnings." The firm

illustrated its point via an economics expert.

O'Leary & McMahon filed a lawsuit against the development owner, Pondsides Greens Inc., and the general contractors, Ebbits Development Corp. and Katanna Development Corp., alleging their joint violation of the state labor law which provides protection to all construction workers in every trade throughout the city and state.

The plaintiff, through his attorneys, alleged the defendants' negligence and violation of the state labor law requiring all owners and general contractors to provide a safe place to work.

"Building developers will often take short cuts at the risk of the laborer's safety to get a job done," charged Haines' attorney John O'Leary, adding that many laborers are "unaware of the laws protecting them at a particular work-site."

The defendants' attorneys countered that Haines' injuries were caused by his own negligence.

As part of the settlement, the plaintiff's attorneys negotiated a waiver of the workers' compensation lien of \$120,000.

Defendants Pondsides Greens, Inc. Katanna Development Corp. and Ebbits Development Corp. were represented by the Manhattan law firm of Bunin & DiGiulio. The defendant Bischoff Contracting Inc., was represented by the law firm of Morgan, Melhuish, Monaghan, Arvidson, Abrutyn & Lisowski of Manhattan.

The settlement was reached with the assistance of Mastro.