

## In The News

# Jury sides with company in industrial death of employee

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A McLennan County jury on Friday sided with a former Waco company in a 2015 industrial accident in which an employee was crushed to death by a 25,000-pound hydraulic aerial lift.

A 170th State District Court jury deliberated six hours Friday before returning a 10-2 verdict in favor of Genie Industries, a subsidiary of Terex Utilities, Inc.

Family members of 51-year-old Terry Leon Lakey were seeking \$16.5 million in damages in their wrongful death lawsuit against Genie, which closed its Waco plant at 7911 Panther Way in 2016, relocating to Oklahoma City and eliminating 56 jobs.

The company has headquarters in Redmond, Washington, and repairs and refurbishes aerial work platforms like the one Lakey was working on when the boom fell and crushed him.

Lakey did not die instantly, and a pathologist described his death as the most gruesome he had seen among many others caused by industrial accidents. The family's attorneys, Zollie Steakley and Gina Long, asked the jury for \$5 million for Lakey's pain and suffering before he succumbed to his injuries.

In answering questions in Judge Jim Meyer's instructions to the jury, the jury ruled 10-2 that there was no design defect in the aerial lift at the time it left the possession of Genie that was a producing cause of the death. Jurors also decided there was no defect in the warning or instructions at the time the product left the possession of Genie that was a producing cause of Lakey's death.

Also, the jury ruled that Lakey's negligence was a proximate cause of his death, which was the foundation of Houston attorney Clifford Harrison's defense of Genie.

Presiding juror Rowena Jhant said after the five-day trial that the jury's decision was "extremely tough."

"It was a very, very tough case and it was very difficult for us to come to a decision," Jhant said. "It was so tough because there was a real tragedy involved and some very sad situations for the family, and we were sorry about that. But we had to give the verdict that we did after we looked at everything in the way we were instructed to do so by the judge."

In civil cases, a verdict can be returned if at least 10 jurors agree to answers in the court's instructions.

Terex was named as a defendant in the original lawsuit filed in September 2016 but reached a confidential, out-of-court settlement with the Lakey family, which includes Lakey's wife, mother and three children.

Jhant said the jury had issues with Terex's safety practices but found Genie was not negligent. She said the jury was unaware that Terex had settled its portion of the lawsuit.

"We looked at the fact Genie was not responsible and Terex was," Jhant said. "But this was about Genie, and we had to look at that and break it all down and separate them. They made an incredible amount of mistakes and had safety issues. It wasn't entirely the man's fault."

Harrison said after the trial that it was a difficult case to try, especially with Lakey's family in attendance.

"These cases are always hard from all sorts of emotional standpoints," Harrison said. "I'm sorry that the family had to go through this horrible loss and then had to endure the trial. I hope it brings some closure."

Steakley said he and the family are "clearly disappointed" and disagree with the jury's verdict.

"But we trust the jury and we trust the jury system. So we will just figure out what we need to do from here," Steakley said.

Lakey's wife, Dawn Lakey, said she would like to see Genie make changes "so this doesn't happen to anyone else."

The plaintiffs attorneys told jurors in opening and closing statements that Genie changed the design of a cylinder in the S-125 stick broom lift that Lakey was working on as the company rushed to get it ready on time for the customer to pick up. The change in design was flawed, and that contributed to the boom falling unexpectedly and crushing Lakey, he said.

Steakley and Long said with "several easy fixes," the danger to employees could have been mitigated.

Harrison countered that the company had an excellent safety record, made safe products and that Lakey knew the rules of safety and chose to ignore them when he climbed beneath the boom.

The full article can also be viewed by clicking [here](#).

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