

Pier 34 Plaintiffs Settle for \$6.1 Mil.

The Legal Intelligencer

Arbitrated Awards Went to Non-Death Claimants

By Asher Hawkins
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More than four years after the collapse of Pier 34, the massive litigation prompted by the incident has finally concluded, with checks totaling roughly \$6.1 million sent out Wednesday to the 32 non-death claimants still awaiting their portions of a January settlement.

Seventy-five percent of that \$29.5 million had been apportioned to the estates of three women who perished in the collapse. The non-death claimants in the case had then submitted to arbitration to resolve the individual apportionments of the remaining amount of approximately \$7.4 million.

"I felt that the task involved was certainly one of the most difficult I've ever had," said arbitrator Harris Bock of the Dispute Resolution Institute. "I felt honored to be selected by this special group of plaintiffs' lawyers."

Alan Feldman of Feldman Shepherd Wohlgelemer & Tanner said that he represented a claimant who, with just under \$432,000, received the largest award among the 32 claimants.

"This was not an easy job," Feldman said of Bock's arbitration. "I'm certain there will be claimants who think their award should be higher . . . It's not a perfect world, [but] the Pier 34 cases are now over."

Feldman said that following the global settlement - reached by all parties in the case under the leadership of Philadelphia Common Pleas Judge William J. Manfredi, who supervises the civil trial division - he placed the non-death claimants' fund into an interest-bearing account. Before arbitration began, there were two opt-out rounds for claimants who wished to avoid arbitration. Bock said that four claimants opted out for \$25,000 apiece, while 12 more opted out for \$75,000 each.

"One of the risks people took [in submitting to arbitration] was that they were not guaranteed any amount, not even the opt-out amount," Feldman noted.

The remaining claimants' lawyers agreed on having Bock arbitrate the matter.

"Other arbitrators would have been suitable, but we were impressed by Harris Bock's presentation," Feldman said.

In March, Bock and Feldman said, Bock began meeting with a claimants' lawyer arbitration committee that consisted of Feldman; Roberta Pichini, of Litvin Blumberg Matusow & Young at

the time; Michael McGuckin of Raynes McCarty; solo practitioner Jed Abramowitz; John Cordisco of Cordisco Bradway & Simmons in Bristol; Robert Ross of Kline & Specter; and James Foerstner of The Beasley Firm.

"With them, I described a format that I thought made sense for the process," Bock said. Bock said that situations in which there are more claims than coverage available are fairly common, although the vast majority of those involve a relatively small number of claims. "A few people is routine, but a mass claim is an unusual one by its definition," Bock said. Bock said that an important aspect of his plan was to limit expert testimony, so as not to make the process unnecessarily lengthy nor give claimants with larger resources an unfair advantage. And rather than have the arbitration "done on paper," Bock said, he decided that all claimants should be allowed to present their cases personally.

"Especially in this instance, the people needed to be heard," Bock said.

Individual presentations were limited to one day, Bock said.

In March, hearings were scheduled to be held at Dispute Resolution Institute offices beginning in June. Bock said that Manfredi personally requested that the arbitration be completed by mid-September, as the matter had already been in the court system for four years at the time.

Bock said that he also considered each claim as if there were an unlimited fund to draw from, a technique he regularly uses.

"When you have a limited fund to work with, you have to value all the cases collectively without regard to the limited fund," Bock said.

At the end of the process, Bock tallied the ideal awards, calculated each claimant's percentage of that total, and applied those pro rata portions to the roughly \$6.1 million that was left in the fund after the opt-out phases.

From June until Aug. 20, Bock heard the claimants' presentations, drafting memos after each one in which he would preliminarily assess what that particular claimant's award should be, he said. After hearing all the presentations, then reviewing his individual memos, he issued his awards on Tuesday.

Feldman said that in discussing how to divvy up the non-death claimants' fund, he and the other lawyers decided on arbitration after ruling out a number of different options, including judicial proceedings or setting up an attorneys' committee that would agree to set awards for varying categories of claimants.

Manfredi said yesterday that he believes the final resolution of the Pier 34 litigation was "fair and equitable under all of the tragic circumstances that surrounded this incident."

"I thought that arbitration was the best way to give individual plaintiffs an opportunity to present their positions," Manfredi said, adding later, "The problem was, had not the plaintiffs and their

attorneys in the non-death cases cooperated in terms of agreeing to arbitration, I think there would have been no choice but for the entire case to go to trial."

Feldman complimented Bock on "carrying out a challenging task professionally and in a very efficient manner." He noted that Bock agreed to cap his fee and billed at an hourly rate slightly less than his usual charge.

"I thought that doing this [arbitration] was something of a public service," Bock said. "It was a case where there was not enough for everyone - the plaintiffs or the lawyers - and I thought I should be part of the mix."

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