



The Voice

And The Defense Wins

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Nicholas C. Pappas and **Casey Wood Hensley** of Frost Brown Todd LLC and **Larry C. Deener** of Landrum & Shouse LLP won a defense verdict in a product liability case tried in federal district court in London, Kentucky.

The plaintiff suffered a below the knee leg amputation after his foot was caught in a shear point on a high wall mining system (HWMS) in Harlan County, Kentucky. The shear point did not exist at the time HWMS was manufactured and sold. A guide rail was added to the HWMS several years after the date of the initial sale. The guide rail created a shear point with a component of the HWMS called the pusher jack. The plaintiff argued that the guide rail was necessary for machine operation, so the modification was foreseeable to the manufacturer. The defense elicited eye witness testimony from several witnesses who observed the subject HWMS before it was modified, and others like it, operate properly without the after-market guide rail.

Plaintiff never returned to work after the accident. He claimed to have ongoing problems with his prosthetic leg, as well as post-traumatic stress disorder and depression. His attorney asked the jury for \$27 million.

The jury deliberated for under two hours and returned a unanimous verdict of no liability on both the design defect and failure to warn claims.

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