

IN THE CIRCUIT COURT FOR DAVIDSON COUNTY, TENNESSEE

CHRISTI SCHONTER, as)
 surviving spouse and)
 administrator of the Estate of)
 KENNETH SCHONTER,)
 deceased,)
)
Plaintiff,)
)
 vs.)
)
)
 EQUIPMENT FINDERS, INC.)
 OF TENNESSEE)
)
Defendant.)
)

CASE NO:

JURY DEMAND

COMPLAINT

Plaintiff Christi Schonter, as the surviving spouse of Kenneth Schonter and the administrator of the Estate of Kenneth Schonter, through counsel, asserts the following complaint against Defendant Equipment Finders, Inc. of Tennessee (“EFI”) for the wrongful death of Kenneth Schonter, who was electrocuted by a charged power line while servicing an aerial boom lift at EFI’s equipment yard in Nashville, Tennessee.

PARTIES

1. Plaintiff Christi Schonter is a citizen and resident of Portland, Sumner County, Tennessee. She is the surviving spouse and administrator of the Estate of Kenneth Schonter.
2. Defendant Equipment Finders, Inc. of Tennessee is a Tennessee corporation with a principal office located at 501 Davidson St., Nashville, Tennessee

37213-1413. Defendant EFI may be served with process upon its Registered Agent, Scott Hatcher, at 501 Davidson St., Nashville, Tennessee 37213-1413.

3. Defendant Equipment Finders, Inc. of Tennessee also does business under the assumed name Equipment Finders, Inc.

VENUE

4. Venue is proper in Davidson County under Tenn. Code Ann. § 20-4-104 because all or a substantial part of the events or omissions giving rise to the cause of action occurred in Davidson County.

FACTS

5. Kenneth Schonter was electrocuted on May 28, 2020 while he was servicing an aerial boom lift at EFI's equipment yard in Nashville, Tennessee.

6. Prior to May 28, 2020, EFI rented an 86-foot JL860SJ boom lift ("the boom lift") from Kenneth Schonter's employer, ERS ReRents, Inc. (ERS).

7. After the boom lift began having an issue with its basket-leveling system, EFI requested that ERS service and repair the boom lift at EFI's property. EFI did not contract, request, or direct for ERS to perform any work on any power lines or power poles on EFI's property.

8. On the morning of May 28, 2020, Kenneth Schonter arrived at EFI's equipment yard (0 Davidson St., Nashville, TN 37213) on behalf of ERS to service the boom lift. While servicing the boom lift, Kenneth Schonter was electrocuted when the basket of the boom lift struck an energized and uninsulated overhead power line,

which crossed EFI's equipment yard. Kenneth Schonter was transported from the equipment yard to Vanderbilt Medical Center where he died two days later.

9. At all relevant times, Kenneth Schonter was acting in the course and scope of his employment as a technician for ERS.

10. At all relevant times, ERS was an independent contractor for EFI. As an employee of an independent contractor, Kenneth Schonter was an invitee of EFI.

11. At all relevant times, EFI was storing and parking the boom lift unreasonably and dangerously close to the energized, uninsulated power lines on EFI's property. EFI knew or should have known that storing/parking the boom lift so close to charged power lines was unsafe, unreasonably dangerous, and in violation of the applicable standard of care and industry standards.

12. At all relevant times, EFI requested, directed, and scheduled the performance of service work to be undertaken unreasonably and dangerously close to the power lines on EFI's property. Given the conditions on EFI's property and the nature of the service work, EFI knew or should have known that the performance of the service work at that location was unsafe, unreasonably dangerous, and in violation of the applicable standard of care and industry standards.

13. Upon information and belief, at all relevant times, there were no markers of any kind warning, identifying, or reminding Kenneth Schonter or other aerial work platform (AWP) operators of the power lines on EFI's property. There also were no markers identifying the safe working distance or "minimum approach distance" for operating AWP equipment on the property.

14. Upon information and belief, prior to Kenneth Schonter's death, EFI discussed the safety risks posed by the energized, uninsulated power lines with an electric utility company; but, EFI never had the power lines insulated, de-energized, or removed.

15. Upon information and belief, throughout 2019 and until at least May 28, 2020, EFI stored boom lifts and other AWP equipment at inadequate and unsafe distances from the charged power lines on its property in violation of the applicable standard of care and industry standards.

NEGLIGENCE OF EFI

16. Plaintiff incorporates all above paragraphs.

17. At all relevant times, as an owner of property and/or general contractor, EFI had a duty to keep the premises in a safe condition and to ensure that no dangerous or hazardous conditions existed on its property and premises.

18. At all relevant times, as an employee of an ERS (an independent contractor), Kenneth Schonter enjoyed the status of an invitee while performing work at EFI's property.

19. At all relevant times, as part of its duty to invitees and to provide a safe workplace, EFI was responsible for removing, insulating, or de-energizing the power lines, which were unreasonably and dangerously close to areas where AWP's were being stored and operated. EFI was also responsible for warning about the power lines, their high voltage charge, and the danger of operating boom lifts so close to the power lines.

20. At all relevant times, it was foreseeable and probable that persons operating AWP equipment might strike or get dangerously close to the power lines on EFI's property.

21. At all relevant times, it was feasible and not overly burdensome for EFI to have engaged in safer, alternative conduct; warned about the power lines; and/or ensured that the power lines were temporarily deenergized or removed.

22. Without limiting this general allegation of negligence, the electrocution and death of Kenneth Schonter was caused by the direct and proximate result of the negligence of EFI in the following particulars:

- i. Negligently storing and parking the boom lift and other AWP equipment in a hazardous location – unreasonably and dangerously close to charged power lines.
- ii. Failing to store and park the boom lift at an adequate and safe distance from energized and uninsulated power lines on the property in compliance with the applicable standard of care and industry standards.
- iii. Negligently requesting, directing, and scheduling the performance of AWP service work by ERS and its employees at a hazardous location – unreasonably and dangerously close to charged power lines.
- iv. Failing to provide Kenneth Schonter and ERS with a safe, non-hazardous area to service the boom lift.

- v. Failing to warn or inform ERS and Kenneth Schonter of the uninsulated, energized power lines; their dangerousness; or the safe minimum distance for operating AWP equipment near the power lines.
- vi. Failing to supervise the service work undertaken by Kenneth Schonter.
- vii. Failing to de-energize the power lines prior to the performance of the service work by ERS and/or Kenneth Schonter.
- viii. Failing to request the removal or insulation of the power lines prior to Kenneth Schonter's service work.
- ix. Failing to exercise reasonable care to protect Kenneth Schonter against the dangers posed by the energized, uninsulated power lines.
- x. Failing to anticipate that AWP workers and invitees to EFI's property might not discover or realize the dangers posed by the power lines or might fail to protect themselves against such dangers.
- xi. Failing to realize that the power lines posed an unreasonable risk of harm to invitees.

DAMAGES

23. Plaintiff incorporates all above paragraphs.
24. As a direct and proximate result of the negligence of EFI, Kenneth Schonter suffered a horrible and painful death when he was electrocuted at EFI's equipment yard. Kenneth Schonter suffered physical injuries, pain and suffering, disfigurement, physical impairment, loss of enjoyment of life, lost wages, and other damages and expense for which EFI is liable. Plaintiff further sues to recover loss of

spousal consortium for the loss of her husband's love, companionship, society, guidance, and counseling because of Kenneth Schonter's death.

25. The conduct of EFI as described above demonstrates intentional, reckless, or willful misconduct and/or an entire want of care to raise a presumption of conscious indifference to consequences constituting recklessness and thus warranting the imposition of punitive damages in an amount to be set by the jury, to deter such conduct in the future, to punish EFI and to make a public example of them.

PRAYER FOR RELIEF

26. Plaintiff prays for relief as follows:

- a. That process be issued requiring Defendants to answer this Complaint in the manner and within the time prescribed by law;
- b. For fair and reasonable compensatory damages;
- c. For the court costs of trying this action;
- d. For a jury to hear this cause of action;
- e. For costs to be taxed to the Defendant EFI;
- f. For such other and further relief as the Court may deem proper; and,
- g. For prejudgment interest;
- h. Such other and further relief to which they may be entitled.

27. Plaintiff respectfully reserves the right to amend this Complaint to conform to the evidence.

Respectfully submitted,

DAVID RANDOLPH SMITH & ASSOCIATES

/s/ David Randolph Smith

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