

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: TRIAL TERM PART 13

IN RE: 91ST STREET CRANE COLLAPSE LITIGATION: INDEX NO.
771000/10

MARIA LEO, Administratrix of the Estate of her Son,
DONALD CHRISTOPHER LEO, Deceased May 30, 2008,

PLAINTIFF,

INDEX NO.
117294/08

- against -

JAMES F. LOMMA, J.F. LOMMA INC., NEW YORK CRANE
& EQUIPMENT CORP., TES INC., 1765 FIRST ASSOCIATES,
LLC, LEON D. DeMATTEIS CONSTRUCTION CORPORATION,
MATTONE GROUP CONSTRUCTION CO., LTD., MATTONE GROUP
LTD., MATTONE GROUP LLC and HOWARD I. SHAPIRO &
ASSOCIATES CONSULTING ENGINEERS, P.C.,

DEFENDANTS.

AND RELATED ACTIONS

60 Centre Street
New York, New York 10007
August 3, 2015

BEFORE: HONORABLE MANUEL J. MENDEZ, Justice,
and a sworn jury.

(Caption continued on next page.)

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: TRIAL TERM PART 13

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XHEVAHIRE SINANAJ and SELVI SINANOVIC as
Co-Administrators of the Estate of RAMADAN
KURTAJ, Deceased and SELVI SINANOVIC,
Individually,

PLAINTIFFS,

INDEX NO.
117469/08

- against -

NEW YORK CITY EDUCATIONAL CONSTRUCTION FUND, NEW
YORK CRANE & EQUIPMENT CORP., J.F. LOMMA, INC.,
TES INC., JAMES F. LOMMA, BRADY MARINE REPAIR CO.,
SORBARA CONSTRUCTION CORP., 1765 FIRST
ASSOCIATES, LLC, LEON D. DeMATTEIS CONSTRUCTION,
MATTONE GROUP CONSTRUCTION CO., LTD., MATTONE
GROUP LTD., MATTONE GROUP LLC, HOWARD I. SHAPIRO &
ASSOCIATES CONSULTING ENGINEERS, P.C.,

DEFENDANTS.

----- X
AND RELATED ACTIONS

----- X
60 Centre Street
New York, New York 10007

APPEARANCES:

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LISA DeCRESCENZO
OFFICIAL COURT REPORTER

Jury Charge

(Whereupon, the jury enters the courtroom.)

THE COURT: You may have a seat.

Good morning, everyone.

JURORS: Good morning.

THE COURT: Welcome back.

Last week on Friday I had every intention of charging you on the punitive damages, but due to the emergency in the building, we had to evacuate.

So, here we are again today. You have heard the parties' positions on punitive damages and now, I will charge you on the law that applies to this issue of punitive damages.

The jury has determined that an award of punitive damages is warranted.

In arriving at your decision as to the amount of punitive damages to award, you should consider the nature and reprehensibility of what each of the defendants, New York Crane & Equipment Corp., J.F. Lomma Inc., or James F. Lomma did.

That would include the character of the wrongdoing, whether New York Crane & Equipment Corp., J.F. Lomma Inc. or J.F. Lomma's conduct demonstrated an indifference to or a reckless disregard of the health, safety or rights of others, whether the act or acts were done with an improper motive or vindictiveness, whether

Jury Charge

the act or acts constituted outrageous or oppressive intentional misconduct, how long the conduct went on, New York Crane & Equipment Corp. J.F. Lomma Inc. or James F. Lomma's awareness of what harm the conduct caused or was likely to cause, any concealment or covering up of the wrongdoing, how often New York Crane & Equipment Corp., J.F. Lomma Inc. or James F. Lomma committed similar acts of this type in the past and the actual and potential harm created by New York Crane & Equipment Corp., J.F. Lomma Inc. or James F. Lomma's conduct, including the harm to individuals or entities other than the plaintiffs, Donald Christopher Leo and Ramadan Kurtaj.

However, although you may consider the harm to individuals or entities other than Donald Christopher Leo and Ramadan Kurtaj, in determining the extent to which New York Crane & Equipment Corp., J.F. Lomma, Inc. or James F. Lomma's conduct was reprehensible, you may not add a specific amount to your punitive damages award to punish New York Crane & Equipment Corp., J.F. Lomma Inc. or James F. Lomma for the harm New York Crane & Equipment Corp., J.F. Lomma Inc. or James F. Lomma caused to others.

The amount of punitive damages that you award must be both reasonable and proportionate to the actual

Jury Charge

and potential harm suffered by Donald Christopher Leo and Ramadan Kurtaj and to the compensatory damages you awarded to each plaintiff, Donald Christopher Leo and Ramadan Kurtaj.

The reprehensibility of New York Crane & Equipment Corp., J.F. Lomma Inc. or James F. Lomma's conduct is an important factor in deciding the amount of punitive damages that would be reasonable and proportionate in view of the harm suffered by Donald Christopher Leo and Ramadan Kurtaj and the compensatory damages you have awarded Donald Christopher Leo and Ramadan Kurtaj.

You may also consider the defendants New York Crane & Equipment Corp., J.F. Lomma Inc. or James F. Lomma's financial condition and the impact your punitive damages award will have on New York Crane & Equipment Corp., J.F. Lomma Inc. or James F. Lomma.

In recording your verdict, you will state the amount awarded by you as punitive damages.

That concludes the charge on that issue.

The jury may now retire to deliberate on the issue of punitive damages.

(Whereupon, the jury leaves the courtroom to deliberate.)

MR. FUERTH: On the record.