

PORT OF SEATTLE
MEMORANDUM

COMMISSION AGENDA
ACTION ITEM

Item No. 4e
Date of Meeting August 5, 2014

DATE: July 22, 2014
TO: Tay Yoshitani, Chief Executive Officer
FROM: Craig Watson, General Counsel, Chief Compliance Officer
Anne Purcell, Sr. Port Counsel
SUBJECT: Ratification of Personal Injury Settlement

Amount of This Request: \$650,000 **Source of Funds:** Insurance Policies
\$50,000 Self-Insured
Retention

ACTION REQUESTED

Request Commission authorization for the Chief Executive Officer to approve a personal injury settlement in the amount of \$650,000.

SYNOPSIS

Plaintiffs Galuega and Mesi Tufi filed a personal injury action against the Port of Seattle and John Bean Technologies (JBT), successor in interest to FMC Technologies, the manufacturer of the Gate A2 jet bridge at Seattle-Tacoma International Airport, in King County Superior Court. Mr. Tufi, a U.S. Airways ramp agent, was injured when the Gate A2 jet bridge tire rolled over his right foot on December 24, 2010. The resulting crush injury ultimately led to the amputation of Mr. Tufi's big toe and the toe immediately next to it. The Port of Seattle owned and maintained the Gate A2 jet bridge. U.S. Airways operated the Gate A2 jet bridge pursuant to its lease agreement with the Port of Seattle.

BACKGROUND

Plaintiffs asserted product liability claims against JBT positing that the jet bridge was not reasonably safe under the Washington Product Liability Act. Plaintiffs alleged that the jet bridge should have been equipped with alternate or additional safety features that may have prevented Mr. Tufi's accident. JBT entered into a confidential settlement with plaintiffs in May 2014.

Plaintiffs assert that the Port was negligent in two primary ways: (1) by not installing an interlock device on the 400 hz ground power system cable hoist, and (2) by relocating the mounting plate for the 400 hz control panel when the Port installed the Safedock system at Gate A2. Plaintiff claimed that if a 400 hz cable hoist interlock had been installed, the jet bridge could not have moved at the time of Mr. Tufi's accident and that the relocation of the mounting plate

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put Mr. Tufi closer to the radius of the jet bridge wheel bogey thereby creating an unreasonable risk of harm. Plaintiffs also asserted that the Port had a right to control U.S. Airways' operation of the jet bridge and that the Port should have imposed rules or regulations related to the operation of the jet bridge.

The Port contended that the sole cause of the accident was Mr. Tufi's inattention to his surroundings, failure to follow U.S. Airways procedures, and failure to exercise reasonable care for his own safety. Mr. Tufi's injury occurred at the end of the last shift of the night (at approximately 11 p.m.) on Christmas Eve. Mr. Tufi had worked the first shift of the day, beginning at 4:30 a.m. that morning, and went shopping during his break between the two shifts. Fatigue, therefore, was a key factor in the accident. The Port's evidence revealed that the Port did not retain control over U.S. Airways' operation of the jet bridge and that U.S. Airways, not the Port, had the right and expertise to direct and train its employees in the safe operation of the jet bridge.

The parties' experts disputed whether or not the lack of the interlock device or relocating the mounting plate for the 400 hz control panel posed undue risks to personnel operating the jet bridge. However, the Port is in the process of funding a project that will install an interlock device on all Port-owned jet bridges that will ensure that the jet bridges will not be able to move while the 400 hz cable is being lowered.

Mr. Tufi was 28 years old at the time of the incident. His injuries (and underlying medical conditions) prevent him from returning to his pre-injury employment as a U.S. Airways ramp agent. Mr. Tufi has experienced a number of medical procedures and complications resulting in the amputation of two toes (big toe and the one next to it) on his right foot. Post-amputation he continues to experience complications and severe physical limitations in his ability to stand and walk as well as constant pain and extreme swelling, rendering him permanently disabled. Mr. Tufi has not worked since the accident and his education level and disability makes future employment challenging.

The parties and a representative from the Department of Labor & Industries participated in a full day of mediation on July 16, 2014. The parties reached an agreement, pending Commission approval, to settle this matter for \$650,000. The settlement amount is a result of the mediator's recommendation.

In light of the fact that the Port is at risk as outlined above and that expenses involved in further litigation would be unnecessarily high in relation to the settlement amount, I certify that this settlement is warranted in accordance with the provisions of Resolution No. 3605, as amended by Resolution No. 3628.

ALTERNATIVES AND IMPLICATIONS CONSIDERED

Alternative 1) – Proceed to Trial, the outcome of which would be uncertain. The settlement figure accounts for the risks both sides would face on liability and damages.

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ATTACHMENTS TO THIS REQUEST

None.

PREVIOUS COMMISSION ACTIONS OR BRIEFINGS

None.