



And The Defense Wins

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DRI members [Jeanne Loftis](#) and [Ryan Boyle](#) of **Bullivant Houser Bailey PC** in Portland, Oregon, successfully defended a catastrophic injury case involving a subcontractor employee for a mine operating company from January 27 to February 8, 2010. After one week on the job, the plaintiff attempted to reinsert a 100 pound drill steel into an industrial rock drill while the drill was in rotation, which caused the plaintiff's clothing to bind into the drill bit and spin him to the ground resulting in a left arm amputation, alleged traumatic brain damage, PTSD, injuries to his eyes, back, knees and lacerations to his right arm. The plaintiff claimed that the mine operator violated federal mining regulations involving training and state safety statutes.

At trial, the plaintiff claimed that his employer, a drilling subcontractor, failed to provide any training, that training documents were falsified, and that he was left alone to repair the drill at the time he was injured. The plaintiff offered testimony from safety and mining experts that the mine operator failed to meet industry standards in developing a safety culture that involved its subcontractors and subcontractor employees and that the mine operator should have, but failed to, ensure that subcontractor employees were, in fact, receiving training as the federal regulations required. The plaintiff claimed that as a result of the mine operator's negligence, he was intellectually impaired and completely unemployable because of the constellation of his injuries and the loss of his dominant arm. He contended that he suffered nightmares daily and was unable to drive.

The mine operator offered testimony from plaintiff's foreman and co-workers that the plaintiff told them he had experience in drilling, that all of the required training took place, that the plaintiff was able to drill at a similar rate as the other drillers, and that the way the plaintiff attempted to re-insert the drill steel was a completely unexpected event and the most physically demanding way to accomplish such a task. The mine operator showed surveillance video of the plaintiff in which he built livestock fencing, lifted large oil barrels, and operated machinery on his personal farm, which disputed his disability and cognitive impairment claims. The mine operator also offered signature records from before and after the accident that showed the plaintiff did not lose his dominant arm as he claimed.

During closing, the plaintiff offered a life care plan of nearly \$5 million, along with past medical expenses and past and future wage loss. The plaintiff also asked the jury for \$5 million in non-economic damages. The jury deliberated for a day and a half before returning a defense verdict. The jury found that the mine operator did not violate the state safety statutes and that any violation of the federal regulations did not cause the plaintiff's damages. As a result of the victory, the plaintiff agreed to forego his appeal.

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