

\$3 million accord in worker's injury suit

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A 39-year-old Des Plaines man injured in 1991 when his backhoe sank into a flooded trench has reached a \$3 million settlement with the general contractor that controlled the job site.

Equipment operator Marlin Scott Kline was injured while laying pipe at the future site of the O'Hare Field Post Office.

According to his lawyers, Kline drove the backhoe too close to a 20-foot deep trench, which had filled with water. As he neared the trench, the soggy ground gave way and the backhoe sank, trapping him.

While there was a quick response from co-workers, it took 15 minutes to free Kline, who at times was submerged, according to Shawn S. Kasserman, who along with fellow Corboy & Demetrio associate G. Grant Dixon II negotiated the settlement.

Despite suffering from hypoxia, punctured lungs, fractured ribs and post-traumatic stress disorder, Kline returned to work at Meccon Industries, a plumbing subcontractor, five months later, said Kasserman, but suffered a breakdown

within six months and hasn't worked since.

"Although there was no objective test which pointed to an injury to Scott's brain, his injury was very real and I think the amount of money paid by the defendant reflects that," Kasserman said.

Kasserman said he and Dixon would have argued at trial later this month that Power Contracting and Engineering Corp., the general contractor, directed Kline to work in an area that was unsafe.

"They had failed to make sure the trench was marked or guarded and failed to adequately shore the trench," Kasserman said.

The defense, according to Kasserman, would have argued that Kline was responsible for his injuries because he drove into the trench. Representing Power Contracting were Rudolf G. Schade Jr. and Thomas P. Boylan, of Cassidy, Schade & Gloor. David F. Buysse, of Garofalo, Schreiber & Hart Chtd., represented Meccon, which waived its \$535,000 workers compensation lien.

The case, settled Tuesday, is *Marlin Scott Kline v. Power Contracting and Engineering Corp.*, No. 97 L 13253.