



## Sharp metal bracket left exposed on shipping trailer: lawsuit

**Type:** Mediated Settlement

**Amount:** \$4,000,000

**State:** New York

**Venue:** Putnam County

**Court:** Putnam Supreme, NY

**Injury Type(s):**

- *arm* - contracture, arm
- *elbow* - biceps tendon, tear
- *other* - laceration; contracture; transfusion; unconsciousness; flexor tendon, tear
- *epidermis* - erythema; numbness
- *neurological* - nerve damage/neuropathy; nerve damage, median nerve; nerve damage/neuropathy; nerve damage, radial nerve
- *arterial/vascular* - artery; blood loss; artery, severed/tear

**Case Type:**

- *Construction* - Accidents
- *Worker/Workplace Negligence* - Negligent Assembly or Installation

**Case Name:** Richard L. Griffeth v. Rocal, Inc., No. 501912/2019

**Date:** November 24, 2022

**Plaintiff(s):**

- Richard Griffeth, (Male, 47 Years)

**Plaintiff Attorney(s):**

- Ted A. Novick; Law Offices of Ted A. Novick, Esq., P.C.; Mahopac NY for Richard Griffeth

**Plaintiff Expert  
(s):**

- Sohel M. Islam M.D.; Plastic Surgery/Reconstructive Surgery; Danbury, CT called by: Ted A. Novick
- Edmund H. Mantell Ph.D.; Economics; Scarsdale, NY called by: Ted A. Novick
- Robert P. Tresp Jr. M.A., C.R.C., C.L.C.P., L.A.C.; Life Care Planning; Phoenix, AZ called by: Ted A. Novick
- Gregory DuBois; Trailers; Columbus, OH called by: Ted A. Novick
- Richard W. Carr Ph.D.; Cargo/Shipping Industry; Jacksonville, FL called by: Ted A. Novick

**Defendant(s):**

- Rocal, Inc.
- Mohegan Associates Inc.

**Defense  
Attorney(s):**

- Joseph J. Gulino; Nicoletti Spinner Ryan Gulino Pinter LLP; New York, NY for Mohegan Associates Inc.
- Stuart G. Glass; Fleischner Potash LLP; Mineola, NY for Rocal, Inc.

**Insurers:**

- Liberty Mutual Insurance Co.
- Ohio Casualty Insurance Co.

**Facts:**

On June 27, 2019, plaintiff Richard Griffeth, 47, a laborer, was helping install large overhead highway signs on eastbound Interstate 84, near Ludingtonville Road in Fishkill, N.Y. Griffeth was an employee of Mohegan Associates, Inc., a highway construction company, and he was filling in at the job site because the usual crew was short staffed.

Another company, Rocal Inc., had manufactured and loaded the highway signs onto its trailer before shipping them to New York. Unbeknownst to Griffeth, the Rocal workers had placed a sharp metal bracket onto the trailer to hold the highway signs in place during shipping.

On June 27, Griffeth was stepping off the trailer when the sharp bracket sliced him. Griffeth sustained injuries to an arm and elbow.

Griffeth sued Rocal. Griffeth claimed that Rocal workers were negligent when loading the trailer.

Rocal impleaded Mohegan and alleged claims for negligent supervision and training.

Griffeth alleged that Rocal's workers negligently put the sharp, exposed bracket onto the trailer. Plaintiff's counsel further argued that the workers failed to tell anyone about this hazard. Griffeth's counsel contended that Rocal could have prevented the incident by cutting the sharp bracket or making another simple adjustment.

Rocal alleged that Mohegan was negligent for not training or supervising Griffeth prior to the accident. Rocal's counsel noted that Griffeth had not previously worked at the job site in question. Rocal's counsel argued that Mohegan should have had Griffeth attend a safety meeting that would have taught him about the hazards at that construction site.

**Injury:**

The bracket sliced Griffeth's right, dominant, elbow, creating an open and deep wound that extended into Griffeth's right armpit. He sustained significant blood loss and lost consciousness at the scene.

Griffeth was rushed to Danbury Hospital. He suffered lacerations to the right flexor mass, biceps tendon, medial and radial nerves and brachial artery.

At the hospital, a vascular surgeon performed an emergency procedure to save Griffeth's arm. The surgery included, among other things, a brachial artery transplant. Griffeth also required numerous blood transfusions.

The artery transplant saved Griffeth's arm. However, the arm no longer functions and instead dangles like an appendage.

Griffeth was hospitalized for a week and was then confined to his home for about six months. He treats frequently with his plastic surgeon, who has performed two diagnostic procedures. Griffeth also underwent twice-weekly occupational therapy from the date of the injury through November 2021. He wears a splint regularly to help with contractures, and he does daily therapy to prevent rigor mortis. Griffeth has been recommended for a wrist fusion and a muscle tendon transfer.

Griffeth is unable to move or feel his arm below the elbow. He said that the arm has not improved since the accident. Griffeth had no prior trauma to this extremity, which is now erythematous and discolored. He said that he experiences dull and achy pain that wakes him at night and negatively impacts the quality of his life.

Griffeth now has to use his left arm for all manual activities. His wife has to help him bathe, and he can no longer tie his shoes or put on pants by himself. Griffeth cannot drive anymore, either.

Prior to the accident, Griffeth was a skilled artist with a passion for drawing. He is no longer able to draw or paint. He also cannot do handyman/carpentry jobs on the side as he did before the incident.

Griffeth never returned to work. The plaintiff's life care planner opined that Griffeth is unemployable. The expert also projected Griffeth's future medical needs, which included annual evaluations, physical therapy, ultrasounds, wrist braces, doctors' appointments and a transcutaneous electrical nerve stimulation device.

Griffeth sought recovery of past and future medical expenses, past and future lost earnings and damages for his past and future pain and suffering.

**Result:** The parties negotiated a pretrial settlement. Rocal's insurer agreed to pay Griffeth \$750,000, and Mohegan's insurer agreed to pay Griffeth \$3.25 million. The settlement totaled \$4 million.

The negotiations were mediated by Allen Hurkin-Torres of JAMS.

Richard Griffeth

**Trial Information:**

**Judge:** Allen Hurkin-Torres

**Trial Length:** 0

**Trial  
Deliberations:** 0

**Editor's  
Comment:** This report is based on information that was provided by plaintiff's and defense counsel. Additional information was gleaned from court documents.

**Writer** pidiculla