



Essex Suit Linking Worker's Fall to OSHA Violations Settles for \$3.5M

A construction worker who suffered a head injury when he fell 20 feet off the roof of a townhouse under construction received a \$3.5 million settlement in his Essex County suit, *Tenezaca v. Toll Brothers, Inc.*, on Dec. 15, 2015.

Feliciano Tenezaca was injured on Feb. 23, 2009, while working on a project in Marshalls Creek, Pennsylvania, where Toll Brothers Inc. was the developer and general contractor. Toll Brothers hired Tenezaca's employer, Anchor Framing Corp., which was performing framing and sheathing on the project, according to the suit.

Tenezaca's suit alleged that the fall occurred because Toll Brothers failed to follow work safety rules established by the federal Occupational Safety and Health Administration (OSHA) and other industry authorities, including providing fall protection training and requiring the use of a safety harness, said plaintiffs lawyer **Gerald Clark** of the **Clark Law Firm** in Belmar.



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GERALD CLARK

Nine days after Tenezaca's accident, another employee of Anchor Framing suffered a similar fall at the same job site, Clark said. OSHA conducted a joint investigation and concluded safety rules were not followed, he said.

Tenezaca, now 32, suffered a fractured skull, cerebral contusion, epidural hematoma, traumatic brain injury, and fractures of the

pelvis, sacrum and facial bones. He spent three weeks in the hospital after the fall, and had surgery to release pressure in the brain and skull, Clark said. He complains of ongoing headaches, poor memory, depression, vision problems, angry outbursts and post-traumatic stress. He has not worked since the fall.

The defense maintained that he is able to work and has exaggerated the nature and extent of his injuries, Clark said. They produced a surveillance videotape showing him playing volleyball, Clark said.

The parties agreed to the settlement Sept. 29, 2015, while trial was underway before Superior Court Judge **Vicki Citrino**. The settlement was paid Dec. 15, 2015, he said.

Bonnie Hanlon of **Goldberg Segalla** in Princeton and **Patrick Perrone** of **K&L Gates** in Newark, who represented Toll Brothers, did not return calls about the settlement.

— *By Charles Toutant*