IN THE SUPREME COURT OF THE STATE OF MISSISSIPPI

FEDERAL INS. CO., ROBERT REED, and JENNIFER REED — APPELLANTS

VS. — NO. 2008-CA-01148

D&D DRILLING & EXPLORATION, INC. and JAMES POLK. — APPELLEES

BRIEF OF APPELLANTS

ORAL ARGUMENT REQUESTED

ON APPEAL FROM THE CIRCUIT COURT
OF LAMAR COUNTY, MISSISSIPPI
Case No. 2006-71P

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D&D DRILLING & EXPLORATION, INC. — APPELLEES

CERTIFICATE OF INTERESTED PERSONS

The undersigned counsel of record certifies that the following listed persons have an interest in the outcome of this case. These representations are made in order that the justices of this Court may evaluate possible disqualification or recusal.

1. Robert Reed, Appellant;
2. Jennifer Reed, Appellant;
3. Joseph A. Ziemianski, Esq., Attorney for Appellant Federal Ins. Co.;
4. Jason S. Schulze, Esq., Attorney for Appellant Federal Ins. Co.;
5. Alex J. Shook, Esq., Attorney for Appellants Robert Reed and Jennifer Reed;
6. Federal Ins. Co., Appellant;
7. D&D Drilling & Exploration, Inc., Appellee;
8. Donna M. Meehan, Esq., Attorney for Appellee D & D Drilling & Exploration, Inc.;
9. James Polk, Appellee;

Respectfully submitted,

FEDERAL INS. CO, ROBERT REED and JENNIFER REED, APPELLANTS

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STATEMENT REGARDING ORAL ARGUMENT

Appellants respectfully request that oral argument be granted in this cause. Because the resolution of the issue presented in the case *sub judice* will depend upon a proper understanding of the factual basis of the underlying civil action, the language of the statutes and case law involved, and how the statutes and case law should be applied to the facts, oral argument will greatly benefit this Court in its determination of this matter.

TABLE OF CONTENTS

RULES:

MISCELLANEOUS:

STATEMENT OF THE ISSUES ON APPEAL

I. THE CIRCUIT COURT ERRED IN GRANTING SUMMARY JUDGMENT AGAINST ROBERT AND JENNIFER REED WHEN GENUINE ISSUES OF MATERIAL FACT EXISTED AS TO WHO WAS IN CONTROL OF THE JOBSITE AT THE TIME MR. REED'S INJURY OCCURRED

II. THE CIRCUIT COURT ERRED WHEN IT COMPLETELY FAILED TO ADDRESS MR. REED'S COMMON LAW NEGLIGENCE CLAIM AGAINST POLK

STATEMENT OF THE CASE

I. Nature of the Case, Course of Proceedings and Disposition in the Circuit Court

Robert Reed ("Mr. Reed") was injured on March 22, 2005, while working at a well referred to as the "Weyerhauser 119-13" well in Baxterville Field, Lamar County. Mr. Reed was employed by Directional Drilling Contractors, LLC ("DDC"),who was retained by the well owner, Penn Va., to direct the directional drilling aspect of the project. D & D Drilling and Exploration, Inc. ("D & D") was also retained by Penn Va. and was charged with performing the actual drilling work. After he was injured, Mr. Reed filed suit against D & D, James Polk ("Polk"), and Penn Va. Penn Va. is no longer a party to these proceedings.

On March 21, 2008, D & D and Polk filed their third Motion for Summary Judgment arguing (among other things) that Mr. Reed was solely responsible for his injuries because his employer (as opposed to him personally) was expected to "direct" all aspects of the directional drilling activities. On April 11, 2008, Mr. Reed filed his response to D & D and Polk's Motion. On June 6, 2008, the Lamar County Circuit Court granted summary judgment in favor of Appellees, D & D and Polk. Appellants Robert and Jennifer Reed now appeal this decision and timely filed their Notice of Appeal on July 1, 2008.

II. Statement of Facts

A. Relationship of the Parties

Penn Va. entered into a contract with D & D to perform services at a well referred to as "Weyerhauser 19-13" located in Baxterville Field, Lamar County.[1] The contract specifically provided that D & D would furnish equipment, labor, and perform services under the direction, supervision and control of Penn Va. inclusive of any consultant or subcontractor engaged by Penn Va. to direct the drilling operations.[2]

Mr. Reed's employer, DDC, was then retained by Penn Va. to direct the directional drilling aspect of the project.[3] Mr. Reed and fellow DDC employee Tim Spicer were assigned to oversee the directional drilling at the Weyerhauser well.[4] Even though DDC would direct the drilling operations, Mr. Reed did not exert ultimate authority over D & D employees.[5] The ultimate right to control D & D employees remained with the D & D supervisor or "toolpusher" that was on site.[6]

Polk was an agent/employee of D & D acting within the scope of his employment at the time of the accident in question. Reed was a third party to the relationship between Polk and D & D, and

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[1]Certified Record ("CR"), 0208-0219
[2]CR, 0208.
[3]CR, 0223
[4]CR, 0222.
[5]CR, 0232
[6]CR, 0233

had no authority over Polk. D & D and DDC had no contractual relationship, but rather were two independent contractors responsible for different aspects of the drilling operation at Weyerhauser 19-13.

The directional drillers' responsibility was to plot and chart the coordinates of the directional drill, but D & D employees operated the motors and other components of the drilling rig. For the majority of the time on the job site, Reed would monitor the direction of the drill from a truck and was not physically present on the rig. As such, even though DDC was responsible for directing the drilling operations, D & D was responsible for providing and operating the drilling rig.[7] D & D also supplied equipment used in drilling operations, including (but not limited to) what is commonly referred to as a "come-along."[8]

B. Installation of the "come-along"

On or about March 20th, DDC employee Tim Spicer found it necessary to use D & D's come-along during the directional drilling operation to ensure that the drill was proceeding in the right direction.[9] It was necessary to attach the come-along to the "Kelly" to hold the rotary table in place to counteract the reactive torque created during the drilling process, and to

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[7]CR. 0224.
[8]CR. 0235
[9]CR. 0240-0243

ensure that the drill continued in the direction called for in the drilling coordinates.[10] There are other ways to hold the "Kelly" in place including a winch line controlled by hydraulics, an "air tugger," "power swivels," or "top drives."[11] Because the rig supplied by D & D was quite old and did not contain any of these devices, Mr. Spicer had no choice but to use the come-along.[12]

The come-along was installed by Mr. Spicer of DDC and Messrs. Polk and Brown of D & D.[13] The come-along performed without incident while in service, and D & D employees actually removed and reinstalled it prior to the incident made the basis of this suit.[14] No one questioned the safety of using the come-along for this application, and it is undisputed that Mr. Reed had no involvement in the selection or initial installation of the come-along.[15]

C. The Day of the Accident

At approximately 6:00 a.m. on March 22, 2005, Mr. Reed entered the rig floor because James Polk was having problems controlling the pressure in the hole.[16] Mr. Reed and Polk unsuccessfully worked the drill string together in an effort to

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[10]CR, 0244.
[11]CR, 0245
[12]CR, 0243 and 0245.
[13]CR, 0235
[14]CR, 0254 and 0253
[15]CR, 0235
[16]CR, 0227

reduce the hole pressure.[17] Mr. Reed then asked Polk to kill the mud pump, and then to bring it back to an idle.[18]

After the pump motor was idling, Mr. Reed told Polk and his assistants Jason Brown and Dencil Powell that they would need to let the come-along off slowly to allow the "bushing" to fall back into alignment.[19] Mr. Reed walked over to the come-along to assist Messrs. Brown and Powell with safely and slowly releasing the come-along.[20] Once he examined the come-along, he noticed that there was tension on it, so Mr. Reed bent over to retrieve a "cheater" pipe to assist with releasing the come-along.[21] Unbeknownst to Mr. Reed, Polk had left the driller's consol (which contains all of the controls for the rig equipment including the ability to start and stop the rig's pumps) to assist Mr. Reed.[22] As Mr. Reed was standing, he noticed that Polk was about to strike the come-along with a hammer despite the fact that he had received no instruction to do so.[23] As Mr. Reed shouted for him to stop, Polk struck the come-along causing the drill string to violently turn rapidly in reverse.[24] This caused the cable and the remaining head of the come-along to strike Mr.

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[17]CR, 0227.
[18]CR, 0228.
[19]CR, 0229
[20]CR, 0230
[21]CR, 0230.
[22]CR, 0257.
[23]CR, 0231
[24]CR, 0231 and 0258

Reed and Polk as it swung around the rig floor.[25] Both Mr. Reed and Polk suffered significant personal injuries.

[25]CR. 0258

SUMMARY OF THE ARGUMENT

Appellants argue that there are genuine issues of material fact in the matter *sub judice* that are appropriate for a jury to decide. These questions include who was in control of the jobsite at the time Mr. Reed's injury occurred, or alternatively, whether the issue of control is a relevant inquiry given that Mr. Reed (who was employed by a subcontractor) was injured by another subcontractor.

Mr. Reed would show that he was a business invitee on the drilling rig that was supplied by D & D. Moreover, even if Mr. Reed was in control of the directional drilling activities, D & D still owned and maintained control of the drilling rig and all its equipment at the time of the accident. Therefore, D & D breached its duty to Mr. Reed by failing to maintain a safe jobsite.

Additionally, Mr. Reed's injuries were foreseeable by Polk. Thus, Polk owed Mr. Reed a duty to refrain from injuring him under common law negligence principles. Polk knew the come-along had pressure on it and clearly had control over himself and the hammer with which he struck the come-along.

Because issues of material fact remain, summary judgment by the Lamar County Circuit Court was improper and should be reversed.

ARGUMENT

STANDARD OF REVIEW

This is an appeal from a summary judgment granted to D & D and Polk, by the Circuit Court of Lamar County, Mississippi. The Supreme Court applies the same standard as the Trial Court in ruling on a motion for summary judgment. Under the *Mississippi Rules of Civil Procedure, 56(c),* a motion for summary judgment "shall be rendered forthwith if the pleadings, depositions, answers to interrogatories and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material facts and that the moving party is entitled to a judgment as a matter of law." *Irby v. North MS Medical Ctr.*, 654 So,2d 495, 499 (Miss. 1995). The Court is to view the facts in a light most favorable to the non-moving party. *Quinn v. Mississippi State Univ.*, 720 So.2d 843 (Miss. 1998). The Court also conducts a *de novo* review of a lower court's grant of summary judgment. *Travis v. Stewart*, 680 So.2d 214, 216 (Miss. 1996) (cited in *Ainsworth v. Capform, Inc.*, 784 So.2d 1008 (Miss.App. 2001); see *also Swan v. I.P., Inc.*, 613 So.2d 61, 63 (Miss. 1988); *Pearl River County Bd. Of Supervisors v. South East Collections Agency, Inc.*, 459 So.2d 783, 785 (Miss. 1984); and *Dennis v. Searle*, 457 So.2d 941, 944 (Miss. 1984).

I. **THE CIRCUIT COURT ERRED IN GRANTING SUMMARY JUDGMENT AGAINST ROBERT AND JENNIFER REED WHEN GENUINE ISSUES OF MATERIAL FACT EXISTED AS TO WHO WAS IN CONTROL OF THE JOBSITE AT THE TIME MR. REED'S INJURY OCCURRED.**

A. Mr. Reed was a business invitee.

Under Mississippi law, the general rule is that a general contractor on a construction site is in control of the premises and is burdened with the duty to use ordinary reasonable care to provide a safe place for employees of a subcontractor to work. *Oden Const. Co. v. McPhail, 228 So.2d 586, 588 (Miss. 1969).* Additionally, the general contractor also has a duty to oversee the conditions of the work of each subcontractor so far as they affect the safety of employees of other contractors. *Id.* Here, Penn Va. was the general contractor of the Weyerhauser 19-13 well project and D & D was a subcontractor. As the general contractor, Penn Va. was charged with a duty to provide a safe jobsite. *Mississippi Power Co. v. Brooks,* 309 So.2d 863, 866 (Miss. 1975). The fact that Penn Va., as the general contractor, was required to provide a safe working environment for Mr. Reed does not absolve subcontractor D & D (as Polk's employer) from liability for its own acts of negligence that cause harm or injury to employees of other subcontractors. *Ainsworth* at 1011. (In *Ainsworth,* a construction worker brought a personal injury suit against a subcontractor who left a steel rebar in the ground over which the construction worker tripped. The Court of Appeals held that summary judgment could not be awarded where issues of material fact, as to who was responsible for the location of the steel rebar, were in question); *Accu-Fab & Constr., Inc. v. Ladner,* 2000 WL 274291 (Miss. App. 2000) (In *Accu-Fab,* the

Mississippi Court of Appeals found that the subcontractor, Accu-Fab was to be held to the same standard of ordinary care due to a business invitee as the general contractor. The facts of *Accu-Fab* created a jury question upon which a jury could determine that the general contractor and the subcontractor breached its duty of reasonable care.)

DDC, Mr. Reed's employer, was not a subcontractor of D & D, but a subcontractor of Penn Va. The relationship of Mr. Reed to D & D was therefore akin to a business invitee relationship, as he had no contractual relationship with D & D and/or its agent/employee, Polk. "An invitee is a person who goes upon the premises of another in answer to the express or implied invitation of the owner or occupant for their mutual advantage." *Lumbley v. Ten Point Co.*, 556 So.2d 1026, 1029 (Miss. 1989) (citing *Hoffman v. Planters Gin Co. Inc.*, 358 So.2d 1008 (Miss. 1978)). Mr. Reed's employer DDC was a subcontractor on the premises where the injury occurred. There is no question in that Mr. Reed's presence on behalf of DDC benefitted both the premises owner and DDC. Therefore, Mr. Reed must be considered a business invitee.

The duty owed to a business invitee is as follows:

> In Mississippi, an owner, *occupant, or person in charge of a premises* owes to an invitee or business visitor a duty to exercise ordinary care to keep the premises in a reasonably safe condition or to warn the invitee of dangerous conditions, not readily apparent, which the owner or occupier knows of or

> should know of in the exercise of reasonable care. (Emphasis added)

Waller v. Dixieland Food Stores, Inc., 492 So.2d 283, 286 (Miss. 1986) (citing *Wilson v. Allday*, 487 So.2d 793 (Miss. 1986); *Down v. Corder*, 377 So.2d 603 (Miss. 1979); and *J.C. Penney Co. v. Sumrall*, 318 So.2d 829 (Miss. 1975)).

B. As an occupier of the property, D & D owed a duty to Mr. Reed to maintain a safe jobsite.

Mr. Reed contends that since he was a business invitee, and D & D was occupying the area where the injury occurred, that D & D must be held to the standard of care due to an invitee. Contrary to Mississippi case law, D & D argues that because it had no ownership interest in the jobsite, it should not be held to the reasonable standard of care owed to a business invitee. *See Accu-Fab & Constr., Inc. v. Ladner*, 2000 WL 274291 (Miss. App. 2000). However, as stated in the order granting summary judgment, D & D Drilling was the actual owner of the rig, and Polk's actions were negligent.[26] D & D therefore owed a duty to Mr. Reed not to negligently injure him.

C. Even if Mr. Reed was in control of the directional drilling activities, D & D still owned and maintained control of the drilling rig and all its equipment at the time of the accident and therefore, D & D breached its duty to Mr. Reed by failing to maintain a safe jobsite.

Although DDC was responsible for the directional drilling aspect of the drilling operation, that responsibility consisted

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[26]CR. 0297

solely of installing the steering equipment, setting the coordinates and making sure the drill was going in the right direction. The majority of the directional drillers' time was spent sitting in a truck monitoring a computer screen making sure that the drill bit was going in the right direction. D & D owned the rig in question. D & D employees operated all of the equipment on the drilling rig. Occasionally, the directional driller would have to *assist* the D & D drillers to make sure the drill bit was properly aligned so as to hit the coordinates set for the direction of the drill. However, to the extent DDC was in control of the directional drilling aspect of this drill, it was merely to keep the drill bit heading in the right direction. In this case, DDC employees were required to use D & D's come-along on D & D's rig to keep the drill heading in the right direction. In no way did DDC assume control over the operation of the rig. Polk and D & D retained complete control over all of the moving parts of the drilling rig. Mr. Reed's control over the directional drilling aspect of the drill does not relieve Polk from his duty to refrain from injuring others with equipment it supplied with the rig. Therefore, Polk and D & D were in complete control over the operation of the moving parts of the drilling rig.

As stated by this Court, a duty is owed to an invitee for hidden or latent defects which are known to the owner in the exercise of reasonable care. Lumbley v. Ten point Co. 556 So.2d

1026, 1029 (Miss. 1989). "Latent defect" has been defined as "a hidden or concealed defect." *Black's Law Dictionary*, 6th ed. Constructive knowledge is deemed to be proven when a dangerous condition exists for a length of time sufficient enough to give the person or entity in control of the premises reasonable notice. *Stelly v. Barlo Woods, Inc.*, 830 F.Supp. 936, 943 (S.D. Miss. 1993) (citing *Waller* at 286 (citing *Douglas v. Great Atlantic and Pacific Tea Co.*, 405 So.2d 107 (Miss. 1981))). Actual knowledge is proven if the owner or occupier of a premises created or caused the dangerous condition to exist.

It is undisputed that Mr. Reed did not suggest that the come-along be utilized for this application.[27] Further, Mr. Reed was not involved in the initial decision to use the come-along, and simply arrived at the drilling rig to discover that the come-along had been installed by employees of D & D and Mr. Reed's immediate supervisor.[28] No one with D & D ever expressed concern regarding the use of the come-along to Mr. Reed, and indeed, there were absolutely no problems with the come-along until Polk unilaterally decided to strike it with a hammer supplied by D & D in direct contravention of instructions provided by Mr. Reed.

Interestingly, D & D employees Jason Brown and Dencil Powell actually removed the come-along during drilling operations prior

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[27] CR. 0226

[28] CR. 0235

to the incident.[29] Because D & D employees removed and then reinstalled the come-along, D & D cannot now shield itself from liability by arguing that Mr. Reed's "use" of the come-along caused his injuries. If D & D (who apparently now argues that the simple act of installing the come-along created a "dangerous condition") reinstalled the come-along despite its "safety" concerns, they bear at least some responsibility for the fact that the come-along was in place on the day of the accident as they could have simply refused to reinstall it once it was removed. Alternatively (and more likely), the fact that they removed and reinstalled the come-along demonstrates that the "use" of the come-along for this application was not dangerous in and of itself. Polk's mental lapse in his decision to strike the come-along is what caused Mr. Reed's injuries, not the simple act of Mr. Reed trying to perform his job with the assistance of a piece of equipment that was owned and provided by D & D.

Mr. Reed submits that D & D's actual (or in the alternative constructive) knowledge of the dangers of using the come-along, coupled with their subsequent approval of using the device when they reinstalled it, constituted a failure to use ordinary care for the safety of others. Whether or not reasonable care was used by D & D, or alternatively, whether D & D was actively negligent, is a question of fact appropriate for a jury to decide.

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[29]CR. 0253 and 0252

1. **Because D & D maintained control of the drilling rig and all its equipment at the time of the accident, it is not afforded protection under the "intimately-related" defense**

The "intimately-related" defense to an independent contractor's premises liability claim is only available to an owner/occupier that releases complete control of the premises to the contractor. *Magee v. Transcontinental Gas Pip Line Corp.*, 551 So.2d 182, 185 (Miss. 1989). Whether the owner/occupier released complete control of the premises is primarily governed by the terms of the contract. *Id.* The Contract that governed the work performed at the jobsite where Mr. Reed was injured was executed between D & D and the premises owner, Penn Va.[30] There was no contract provision providing authority or control over the jobsite to DDC. D & D failed to submit any summary judgment evidence that DDC assumed complete control over the jobsite. Accordingly, D & D is not entitled to the protection under the "intimately-related" defense, as complete control of the jobsite was never relinquished to DDC.

Contrary to D & D's assertions, the evidence demonstrates that DDC was merely a consultant for the directional drilling aspect of the project.[31] DDC had no authority to supervise or control D & D's employees[32], and D & D employees continued to

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[30]CR. 0208-0219.
[31]CR. 0248
[32]CR 0247-0248

work at the jobsite while DDC handled the directional drilling. Because D & D supplied the rig, owned and supplied all of the equipment at the jobsite, and maintained control over the rig and all of its corresponding equipment, it can hardly be argued that complete control of the jobsite had been relinquished to DDC. As such, Defendants should not be afforded protection under the "intimately-related" defense.

2. Because there is no evidence that Mr. Reed knew or should have known of the dangers at the jobsite, D & D is not afforded protection under the "knowledge of the danger" doctrine

D & D relied on MISS. CODE ANN. § 11-6-66 (an affirmative defense commonly referred to as the "knowledge of the danger" defense) in its Motion for Summary Judgement.[33] A party relying on an affirmative defense carries the burden of pleading and proving that defense. *Miss. R. Civ. P.*, 8(c); *Graham v. Pugh*, 417 So.2d 540-41 (Miss. 1982). In a summary judgment motion, the moving party carries the burden of proving each element of an affirmative defense under MISS. CODE ANN. § 11-6-66 as a matter of law.

D & D failed to submit any summary judgment evidence that releasing the come-along while the pump motor was idling was a dangerous condition. As noted in expert R. David Sperry's report, striking the come-along and failing to slowly release it created the dangerous condition, not the simple act of allowing the pump

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[33]CR. 0184

motor to idle while they addressed the come-along.[34] Tim Spicer testified that it was not even necessary to shut off the pump motors to release the come-along.[35] Mr. Spicer testified that although it was not his normal practice, "{y}ou can release the come-along (sic) with the motor running if you lock the rotary table to take the torque off the cable of the come-along (sic)."[36]

A dangerous condition did not exist until Polk elected to strike the come-along. There is no evidence that Mr. Reed knew or should have known that Polk was going to hit the come-along with a hammer. Indeed, Mr. Reed testified that his instructions to Polk were to slowly release the come-along only a few notches at a time. Had Polk heeded Mr. Reed's instructions, the dangerous condition (i.e. the whirling come-along) would have never existed.

II. THE CIRCUIT COURT ERRED WHEN IT COMPLETELY FAILED TO ADDRESS MR. REED'S COMMON LAW NEGLIGENCE CLAIM AGAINST POLK

In its Order Granting Motion for Summary Judgment, the Court completely ignored the common law negligence claims against Polk, who was acting as an agent within the scope of his employment with his employer/principal D & D when the incident occured. Mr. Reed was clearly a third party to the relationship between Polk

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[34]CR. 0257-0259.
[35]CR. 0131.
[36]CR. 0131.

and D & D.

D & D and Polk's arguments ignore the well-settled rule that an agent may be liable for tortious conduct to both the principal and the third party. *Holland v. Mayfield*, 826 So.2d 664, 670 (Miss. 1999) ("an agent who commits a tort is liable in both his representative capacity and in his individual capacity") (citing *American Fire Protection, Inc. v. Lewis*, 653 So.2d 1387, 1391 (Miss. 1995); *Miss. Power & Light Co. v. Smith*, 153 So. 376, 380 (Miss. 1934) ("if both the agent and the master owe a duty to another, they may be held liable for a breach thereof jointly or severally"); and *Mullican v. Meridian Light & Ry. Co.*, 83 So. 816, 819 (Miss. 1920)("the relation of agency does not exempt a person from liability for an injury to a third person resulting from his neglect of duty for which he would otherwise be liable")).

In the instant case, Mr. Reed testified that he warned Polk to release the come-along one notch at a time in a slow, methodical fashion, and that Polk instead struck the come-along with a hammer while Mr. Reed was in harm's way. Polk also testified that he knew the come-along had pressure on it.[37] Polk clearly had control over himself and the hammer with which he struck the come-along. Liability can be established against Polk and D & D for not only failing to provide a safe workplace on the

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[37]CR. 0238

rig D & D owned, but also under the long standing common law obligation that all persons must use that which he controls as not to injure another. *Miss. Power & Light Co.* at 379. The issue of whether Polk was actively negligent is a question of fact appropriate for a jury to decide.

CONCLUSION

There are genuine issues of material fact in the case *sub judice* which are appropriate for a jury to decide. These issues include whether or not D & D (as Polk's employer) had either actual or constructive knowledge of the dangers of using the come-along, their subsequent approval of using the device when they reinstalled it, Polk's failure to use ordinary care for the safety of others, and D & D's failure to use reasonable care to maintain a safe job site.

Finally, Polk is liable to Mr. Reed not only for failing to provide a safe workplace on the rig D & D owned, but also under the long standing common law obligation that all persons must so use that which he controls as not to injure another. The issue of whether Polk was actively negligent is also a question of fact appropriate for a jury to decide.

Consequently, issues of material fact exist, and summary judgment was improper and should be reversed.

RESPECTFULLY SUBMITTED, this the 27th day of October, 2008.

FEDERAL INSURANCE COMPANY, ROBERT REED and JENNIFER REED, APPELLANTS

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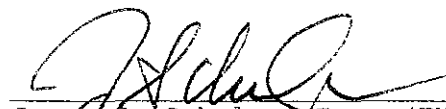

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CERTIFICATE OF SERVICE

I, ALEX J. SHOOK, of the law firm of HAMSTEAD WILLIAMS & SHOOK PLLC do hereby certify that I have this day mailed, postage prepaid, a true and correct copy of the foregoing BRIEF OF THE APPELLANT to all interested parties, addressed as follows:

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SO CERTIFIED, this the 11th day of September, 2008.

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Honorable R.I. Prichard, III
Lamar County Circuit Court Judge
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SO CERTIFIED, this the 10th day of November, 2008.

FEDERAL INSURANCE COMPANY, ROBERT REED and JENNIFER REED, APPELLANTS

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