

Worker Hurt in Loading Dock Fall Receives \$410K Settlement

Driver allegedly violated freight company policy barring workers from riding the lift

\$410,000 settlement

A J.C. Penney loading dock worker who was hurt when a delivery driver violated an unwritten freight company policy barring J.C. Penney employees from riding the delivery truck lift has settled her negligence claim for \$410,000.

On Feb. 15, 2008, a J.C. Penney employee who worked as a loading dock receiver was unloading pallets. One of her co-workers was standing on the lift gate of a Schneider National Carriers delivery truck. In addition to the co-worker, five or six Z-racks — wheeled clothing racks — were on the lift gate. The coworker was riding the lift rack up and the Z-racks were in danger of falling.

The J.C. Penney employee yelled to her coworker that he was not to be riding on the lift gate. J.C. Penney had a policy that prohibited employees from riding the lift. Schneider National Carriers also had an unwritten policy that barred J.C. Penney employees from riding the lift.

The delivery truck driver stopped the lift, and the J.C. Penney employee got on to secure the Z-racks to keep them from falling. The delivery truck driver again began raising the lift, despite her protests, and told her, “Just hold on — you’ll be all right.”

Within a few seconds, however, the lift began rising unevenly, the Z-racks began shifting and the co-worker jumped off. The racks toppled toward the J.C. Penney employee, pushing her off the lift and to the ground, and then fell on top of her. The employee suffered herniated disks in her lower back in the accident.

Ronald J Foster, Jr. of Schoen Walton Telken & Foster pursued a worker’s compensation claim on the employee’s behalf. Troy E. Walton of Schoen Walton Telken & Foster filed a personal injury lawsuit against Schneider National Carriers and its driver alleging the driver negligently operated the lift despite knowing that the J.C. Penney employee was not allowed to ride it and that he exclusively controlled the lift and unilaterally decided to operate it.

Schneider National Carriers denied the allegations and filed a third-party action against J.C. Penney, claiming that the company failed to properly train and supervise its employees. Schneider also asserted that because it was cold on the day of the accident, the J.C. Penney employee rode the lift in order to complete the work faster and therefore was at fault for causing her injuries.

During litigation, Schneider admitted that it had an unwritten policy that prohibited employees of J. C. Penney from riding the lift gate. After the incident, this unwritten policy was made a written policy.

In August, without admitting liability, Schneider agreed to pay \$410,000 to settle the claim. Walton was also able to negotiate a significant reduction in the worker's compensation claim with J.C. Penney's carrier. The insurance carrier agreed to take \$80,000 which was less than a third of the lien amount.

Schoen Walton Telken & Foster represents injured people in southern Illinois, including the Metro East, and eastern Missouri, including the St. Louis metropolitan area, in personal injury, workplace accident, medical malpractice and pharmaceutical and product liability cases.