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\$17 million given in worker's death

Lawyer: Manager at East Austin plant left woman trapped in machine

By Claire Osborn
AMERICAN-STATESMAN STAFF

A Travis County jury awarded \$17 million in damages Wednesday to the husband of a woman who died

last year after she was pinned by machinery at a Borden Superior Dairies plant in East Austin.

No one at the plant turned off the machine or called 911 for 20 minutes after employees noticed that Faye Martinez was trapped, said Gary Rodriguez, one of the plaintiff's lawyers.

"The supervisor knew how to turn off the machine but he wouldn't do it and went looking for

maintenance because he said it was their job to handle, and he didn't want to hurt the machinery," Rodriguez said.

The jury deliberated for a day after a 1½ week trial in the 353rd District Court of Judge Margaret Cooper.

No criminal charges were filed against the supervisor, although the Austin Police Department investigated the case, said Lynn Watson,

another of the plaintiff's lawyers.

Rick Reyna, a lawyer for the company, declined to comment about the incident beyond saying that the company "is still very saddened by the loss of Faye Martinez, who they really did consider to be a part of their family."

The damages against the plant's owner, Milk Products LP, includes

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\$10 million in actual damages and \$7 million in punitive damages. Martinez's husband will receive the award; her teenage son settled out of court with the company.

Martinez, 40, had worked at the plant for six months before she died. She usually loaded cases of milk on the loading dock, Rodriguez said. But when she reported for a night shift at the plant on Jan. 23, 2003, she was assigned to a different area of the plant after another worker called in sick, Rodriguez said.

The area that she reported to

had machinery that pushed milk crates from one conveyor belt to another, he said. Martinez, who was not trained on how to operate the machinery, was left alone when another employee went on a break, Rodriguez said.

No one knows exactly how she became pinned, but plaintiffs lawyers think she tried to remove a crate from the back conveyor after the machinery stopped because she thought it would jam the conveyor belts once the line started again.

Martinez apparently didn't know the crate was tripping a sensor that shut off the pushing mechanism, Watson said. When she removed the crate, the mechanism came on and pushed a stack of six crates against Martinez's back, Watson said.

"It pinned her face against the steel wall of the back plate," Watson said.

The employee who had gone on a break came back but didn't know how to turn off the machine, so he got the supervisor, Rodriguez said.



Faye Martinez

The supervisor left to find maintenance without turning off the machine, he said.

"Ten to 15 employees showed up, and none of them knew how to turn it off, so they were just sitting there watching her die of suffocation," Rodriguez said.

The plant had modified the machinery so that the off button was hidden, and there was no sign indicating where it was located, he said.

"Our community sent a message to corporate America today that workers' safety is just as important, if not more important, than company profits," Rodriguez said.

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