

# VIRGINIA LAWYERS WEEKLY

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## Failure of liftgate blamed on negligent maintenance

### \$2,850,000 Settlement

Decedent was in his second career at the time of the subject workplace accident, having retired from a civil service job as a naval architect. In his new job as a construction site supervisor at the Hampton Veteran's Administration Hospital, he was asked by a door supplier to "spot" a 2,500 pound load of doors being delivered by a truck via a hydraulic liftgate.

The suit alleged that the liftgate was negligently maintained in that it had been allowed to sag below ac-

cepted specifications. In addition, the plaintiff alleged that the delivery company employed liftgate equipment which was too small and had an inadequate lifting capacity. As a result, the load slipped off and crushed the decedent.

The defendants asserted

contributory negligence/assumption of the risk and brought a third-party claim against the manufacturer of the load's pallet. Retired Judge Robert L. Harris was instrumental in resolving the matter even after initial mediation efforts failed.

[09-T-125]



HUFF, POOLE & MAHONEY, P.C.

ATTORNEYS & COUNSELLORS

**Type of Action:** Wrongful death

**Injuries Alleged:** Death

**Name of Case:** T. M., Administrator of the Estate of W. M. Deceased v. A.O., LLC, R. H., P.T. Company and M. Corp

**Court:** Newport News Circuit Court

**Case No.:** CL06-1187T-01

**Name of Judge:** Charles P. Tench

**Verdict or Settlement:** Settlement

**Special Damages:** \$4,840 funeral & approximately \$1,100,000 economic loss, loss of earnings services, etc. per economist's report

**Amount:** \$2,850,000

**Date:** June 24, 2009

**Experts:** Dr. Ed Cross, economist, Norfolk; Frank Burg, CSP, safety and OSHA regulations, Woodstock, IL; Steve Farlow and Dr. Charles Manning, Raleigh, N.C., engineering, computerized animation and accident reconstruction

**Plaintiff's Attorney:** Jeffrey F. Brooke, Virginia Beach