



Driver Recovers \$1.25M For Claim Of Disfigurement In Warehouse Mishap

By Charles Toutant

Jaramillo v. Whitehurst & Clark Inc.: A truck driver who claimed to have suffered permanent facial injuries in a warehouse accident agreed on April 30 to a \$1.25 million settlement.

Diego Jaramillo of Newark was unloading his truck at a Whitehurst & Clark Inc. warehouse in Edison on Jan. 17, 2002, when a pallet loaded with boxes fell from a forklift and hit him on the head. The complaint charged that Whitehurst & Clark's forklift driver lacked proper training and was negligent for lifting two stacked pallets at once.



John O'Dwyer

Jaramillo, now 39, suffered fractures of the jaw, nose and bones surrounding his right eye, giving him a sunken right cheek and crooked nose that were only partially remedied by surgery, according to his lawyer, *John O'Dwyer*, a partner at

Ginarte, O'Dwyer, Winograd & Laracuentein Newark.

The parties settled after a conference with Essex County Superior Court Judge James Rothschild Jr.

Whitehurst & Clark's liability carrier, St. Paul Insurance Co., asserted a third-party claim against Jaramillo's employer, Kreilkamp Trucking, of Allenton, Wis., under New Jersey's loading-and-unloading doctrine, by which a trucking company may owe defense and indemnification to a third party -- here, Whitehurst & Clark -- for negligence during the process.

Kreilkamp's primary motor vehicle insurance carrier, Fireman's Fund of Novato, Calif., agreed to tender its primary coverage of \$1 million. The excess carrier, National Union, a unit of AIG of New York, is potentially on the hook for the remaining \$250,000 but is disputing with St. Paul's over the amount.

Whitehurst & Clark's lawyer, *Jeffrey Segal*, an associate at Marlton's *Rawle & Henderson*, confirms the settlement.