

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW HAMPSHIRE**

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**ALLEN R. WALSH**

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**DOCKET NO: \_\_\_\_\_**

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**Plaintiff**

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**v.**

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**COMPLAINT**

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**JURY TRIAL DEMANDED**

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**SEPPALA CONSTRUCTION CO., INC. et al**

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**Defendant**

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**PARTIES AND JURISDICTION**

1. At all times relevant, Allen R. Walsh (hereinafter “Plaintiff”), was and is a resident of the Town of Athol, County of Worcester and Commonwealth of Massachusetts, with a mailing address of: 285 Green Street, Athol, MA 01331.
2. At all times relevant, Defendant Seppala Construction Co., Inc. (hereinafter “Defendant Seppala”), is a corporation organized in the State of New Hampshire, with a usual place of business in the Town of Rindge, in the County of Cheshire and State of New Hampshire, and has a mailing address of: 117 Hunt Hill Road, Rindge, NH 03461, and a registered agent in this state of: Gerald R. Prunier, 20 Trafalgar Square, Ste. 626, Nashua, New Hampshire 03063.
3. At all times relevant, Defendant Aurora Structural Connections, Inc. (hereinafter “Defendant Aurora”), is a corporation organized in the State of New Hampshire, with a usual place of business in the Town of Mason, in the County of Hillsborough, and the State of New Hampshire, and has a mailing address of: 297 Marcel Road, Mason, NH 03048, and a registered agent in this state of: Daniel Jameson, Sr., 297 Marcel Road, Mason, New Hampshire 03048.
4. At all times relevant, Defendant Public Service Company of New Hampshire (hereinafter “Defendant Public Service”), is a corporation organized in the State of New Hampshire and having a usual place of business at Manchester, New Hampshire, and a registered agent in this state of: Robert A. Bersak, 780 North Commercial Street, Manchester, New Hampshire 03101.

5. The Plaintiff alleges that a controversy exists having a value in excess of \$75,000.00, exclusive of interest and costs.
6. This Court has jurisdiction over this action, pursuant to 28 U.S.C. § 1332, because the amount in controversy exceeds \$75,000.00, and because there is complete diversity of citizenship between the Plaintiff and the Defendants.

### **FACTUAL BACKGROUND**

7. On December 3, 2001, Plaintiff was employed by Crichton Metal Erectors, Inc. (hereinafter "Crichton") as a steelworker.
8. Crichton had contracted with Defendant Aurora to perform certain steel erection services, in accordance with a contract between Crichton and Defendant Aurora.
9. Defendant Aurora in turn had a contract with the general contractor of the construction job, Defendant Seppala, to perform certain steel erection services.
10. The location of the construction job was at 97 Hunt Hill Road, Rindge, New Hampshire. The owner of the property was adding an addition to the existing commercial building at that location.
11. The property at the construction site was owned by Austin Realty, of 24 Townsend Road, Mason, NH 03048 (hereinafter "Property Owner"). Property Owner contracted with Defendant Seppala to enlarge and enclose a crane bay and to add an additional crane bay to an existing commercial building.
12. The property at the construction site was leased to FAMM Steel, Inc., a New Hampshire corporation, and served as a place of business for this steel fabricating company.
13. Further, at this same time and place, Defendant Public Service owned, operated, and maintained electrical transmission lines that brought electrical power to and near the property. Defendant Public Service is in the business of selling and delivering electrical power, through its electrical transmission lines, to customers throughout New Hampshire.
14. On December 3, 2001, the Plaintiff was working on a mechanical lift at the job site. The lift was raised to allow the Plaintiff to complete his job of erecting sections of structural steel, known as "girts".
15. The Plaintiff was attempting to erect the girts and to weld the girts to the existing steel framework. The lift on which the Plaintiff was working was located in close proximity to live electrical transmission lines which served the existing building.

While working on the lift, the Plaintiff suffered severe, permanent and disfiguring electrical burns as a result of electrocution.

**COUNT 1 – NEGLIGENCE vs. DEFENDANT SEPPALA**

16. In a plea of the case; the foregoing paragraphs are realleged and reincorporated herein.
17. As general contractor of the construction project, Defendant Seppala had a non-delegable duty to maintain a reasonably safe workplace for those who were expected at the job site, including construction workers such as the Plaintiff.
18. Defendant Seppala was aware of and permitted a dangerous condition to exist in that the mechanical lift (the platform from which the Plaintiff was working) was erected too closely to electrical transmission lines.
19. Defendant Seppala breached its duty to maintain a reasonably safe workplace by not requiring the mechanical lift, on which Plaintiff was working, to be erected and/or maintained at a safe distance from the electrical transmission lines.
20. Defendant Seppala's breach of duty was a substantial factor in causing Plaintiff's injuries, specifically serious, severe and permanent injuries, specifically including but not limited to multiple electrical burn injuries and other physical injuries, now and in the future; medical bills and other medical expenses arising out of those injuries, now and in the future; past, present, and future physical and mental pain and suffering; past, present and future loss of the enjoyment of life; past, present and future lost wages, and a diminished earning capacity, and other injuries and losses, all to his damage.

**COUNT 2 – VIOLATION OF FEDERAL REGULATION BY SEPPALA**

21. In a plea of the case, the foregoing paragraphs are realleged and reincorporated herein.
22. As general contractor of the construction project, the Defendant Seppala had a non-delegable duty to comply with worksite safety regulations established by the Occupational Safety and Health Administration of the United States Department of Labor (hereafter OSHA), in accordance with the Code of Federal Regulations (hereafter CFR).
23. OSHA regulations provide certain safety-related work practices concerning electricity must be observed at construction sites, including the job site at 97 Hunt

Hill Road in Rindge, New Hampshire. These regulations are contained in 29 CFR 1926.416.

24. Defendant Seppala violated the OSHA regulations concerning safety-related work practices concerning electricity as provided in 29 CFR 1926.416.
25. Defendant Seppala's violation of 29 CFR 1926.416 was a substantial factor in causing the Plaintiff to be injured on December 3, 2001, as described herein.

### **COUNT III – NEGLIGENCE vs. DEFENDANT AURORA**

26. In a plea of the case, the foregoing paragraphs are realleged and reincorporated herein.
27. Defendant Aurora, as a sub-contractor, entered into a contract with the Defendant Seppala, as general contractor, to perform certain steel erection services at the jobsite at 97 Hunt Hill Road, Rindge, New Hampshire.
28. Defendant Aurora contracted with Crichton Metal Erectors, Inc. to perform certain steel erection services at the jobsite, which services Aurora was obligated to perform according to a contract with Defendant Aurora.
29. Defendant Aurora had a non-delegable duty to maintain a reasonably safe workplace for those who were expected at the jobsite, including the construction workers of Crichton Metal Erectors, Inc. including the Plaintiff.
30. Defendant Aurora was aware of and permitted a dangerous condition to exist in that the mechanical lift, which was the platform in which the Plaintiff was working, was erected too closely to electrical transmission lines.
31. Defendant Aurora breached its duty to maintain a reasonably safe workplace by not requiring the mechanical lift, on which Plaintiff was working, to be erected and/or maintained at a safe distance from the electrical transmission lines.
32. Defendant Aurora's conduct as alleged herein was a substantial factor in causing the Plaintiff's injuries, as described herein.

### **COUNT IV – VIOLATION OF FEDERAL REGULATIONS BY AURORA**

33. In a plea of the case; the foregoing paragraphs are realleged and reincorporated herein.

34. As the sub-contractor for steel erection services, Defendant Aurora had a non-delegable duty to comply with work site safety regulations established by OSHA, in accordance with applicable CFR's.
34. OSHA regulations provide certain safety-related work practices concerning electricity must be observed at construction sites, including the job site at 97 Hunt Hill Road in Rindge, New Hampshire. These regulations are contained in 29 CFR 1926.416.
35. Defendant Aurora violated the OSHA regulations concerning safety-related work practices concerning electricity as provided in 29 CFR 1926.416.
36. Defendant Aurora's violation of 29 CFR 1926.416 was a substantial factor in causing the Plaintiff to be injured on December 3, 2001, as described herein.

**COUNT V – NEGLIGENCE vs. PUBLIC SERVICE**

37. In a plea of the case, the foregoing paragraphs are realleged and reincorporated herein.
38. Defendant Public Service provided electrical service to the building at the jobsite owned by Austin Realty and was responsible for the erection and maintenance of electrical service lines to the building.
39. Defendant Public Service was aware of the construction project and knew that its electrical service lines to the building at 97 Hunt Hill Road were not insulated to prevent human contact in the area of the building and posed a potentially hazardous condition to construction workers at the job site, such as Plaintiff.
40. Defendant Public Service had a duty to install and maintain its electrical service lines in a reasonably safe condition.
41. Defendant Public Service breached its duty of care to maintain and install reasonably safe electrical transmission lines in that it failed to insulate the lines to prevent construction workers like the Plaintiff from contact with the electrical transmission lines or otherwise to de-energize the lines to prevent the risk of shock and/or electrocution.
42. Defendant Public Service's breach of duty was a substantial factor in causing Plaintiff's injuries, as described herein.

**COUNT VI – JOINT AND SEVERAL LIABILITY**

43. The previous paragraphs are realleged herein.
44. The Defendants acted together in establishing the location of the mechanical lift, with regard to its proximity to the electrical lines, and otherwise were collectively responsible for the safety of the job site.
45. Each of the Defendants had a right to control or manage the details of work-site safety at the location where Plaintiff's electrocution occurred.
46. The Defendants, acting together, jointly controlled and shared the risks involved in these actions.
47. The Defendants acted together, with a common plan, each knowing that their actions would or could damage the Plaintiff, as alleged, and damage did occur to the Plaintiff, as alleged.
48. Wherefore, as a result of the Defendants' actions, the Plaintiff requests that this Court find that a joint venture or enterprise existed, and impose joint and several liability upon each and all of the Defendants for the total sum of the Plaintiff's damages as alleged herein, without regard to N.H. RSA 507:7-e.

**WHEREFORE PLAINTIFF DEMANDS A TRIAL BY JURY, AN AWARD OF DAMAGES, AN AWARD OF COSTS, AND AN AWARD OF PRE-JUDGMENT INTEREST.**

Dated: \_\_\_\_\_

Allen R. Walsh  
By his Attorneys  
Waystack & King

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