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ROSEVILLE

Company, city to pay \$6.4 million

PARATRANSIT LIFT FAILED;
MAN'S INJURIES SEVERE

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For the first 18 years Thomas Avery was a quadriplegic, he did his best to live a normal life.

He returned to college and held jobs. He volunteered with at-risk kids. He relied on help for some basic tasks, like eating and dressing, but maintained a significant amount of self-sufficiency in and out of his home.

That was before he rolled backward off a platform lifting him into a Roseville paratransit bus two and a half years ago, dropping him six feet onto his head and causing severe brain injury.

Now, the 40-year-old rarely leaves his Del Paso Heights home. When he does, he often forgets where he's going and why. His father sometimes follows to make sure his son doesn't get lost.

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Award: Lawyer cites improper inspection

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"This accident totally took away a lot of my independence," Avery said.

Twelve Placer County jurors apparently sympathized, awarding \$6.4 million in economic and non-economic damages to Avery last week. The jury found that the city of Roseville and Fairfield-based MV Transportation, which operates the city's paratransit system under contract, were liable for a faulty lift that caused the fall.

Sacramento attorney Roger Dreyer, who represented Avery with co-counsel Chris Wood, said the case highlights the vulnerability of disabled people who rely on the care and diligence of others.

"This is a very important case from a public-interest standpoint," he said. "I don't believe the city of Roseville or MV Transportation did their duty or their responsibility. ... They're supposed to protect these people."

A spokeswoman for MV Transportation did not return



Thomas Avery wants to use part of his \$6.4 million award to buy a specially equipped van.

a phone call from The Bee, and the company's attorney declined to comment.

Megan McPherson, a city spokeswoman, said that at the time of the accident, Roseville had specific guidelines in place dictating the inspection of buses by city mechanics and MV Transportation operators. She added that those guidelines remain in place.

However, McPherson said the city acknowledges some responsibility for the accident, and described Avery's accident as a sad event.

"We don't want anything like this to ever happen again," she said. "Any lessons we can take from this on our end we are going to, and we'll definitely do everything in our power to ensure that the operation of our transit system ... puts safety on the forefront."

On April 12, 2008, Avery finished shopping at Denio's Farmers Market and dialed up a paratransit bus for a ride home. As he and his electric wheelchair were being loaded onto the bus, he rolled backward off the lift and hit his head on the pavement.

Dreyer said the bus driver, employed by MV Transportation, failed to inspect the lift before loading Avery onto it, as the manufacturer recommends be done every time the device is used.

Had he done so, Dreyer said, the bus driver would've seen the missing bolts and loose pins that caused the lift and its safety measures to fail. The driver also did not properly secure Avery's chair on the lift, Dreyer said.

The city is responsible for not properly replacing a part six weeks before the accident, work that caused the bolts and pins to loosen, Dreyer said. The jury determined MV Transportation was 83 percent at fault, and the city 17 percent. The damages will be

divided accordingly.

McPherson said MV Transportation paid the city's defense costs, and that city officials are reviewing their contract to determine whether MV can be held liable for the city's portion of the award.

At the time of the 2008 accident, Avery was an incomplete quadriplegic - he had some limited mobility in one arm - as the result of a traffic collision in 1989. But in the fall, Avery dislocated his shoulder and lost most mobility in that arm as a result of debilitating pain, Dreyer said.

He also lost much of his senses of smell and taste, and, his attorney said, some of his personality.

Most important, though, Avery said he suffered damage to his short-term memory, significantly increasing his dependence upon others.

He can no longer work, or volunteer. His nephew now lives with him, and he rarely leaves the house.

"For the first 17 and a half years (of being a quadriple-



Roger Dreyer

A photo taken at the scene of the accident that injured Thomas Avery shows his crashed wheelchair. In 2008, Avery rolled off the ramp of a paratransit bus; his head hit the concrete.

gic), I accepted it. I don't let my disability rule me," Avery said in a telephone interview Monday. "After the accident, there's a lot of stuff I can't accept.

"But I try to hide it," he added. "I guess it's my way of trying to deal with the pain."

Dreyer said the accident dealt a terrible blow to his client's quality of life. "The one thing that Tom Avery had that functioned extremely well

was his brain, and they took that away from him," he said.

Despite his accident, Avery said he continues to rely on public transportation when he does venture out. But Avery said he hopes to use part of his \$6.4 million award to purchase his own specially equipped van.

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