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Bridge victims can't sue '60s designer, so focus shifts to others

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Federal investigators' focus on a 1960s design flaw in the Minneapolis freeway bridge collapse could narrow the legal options for collapse victims.

Investigators pointed Tuesday to undersized gusset plates on the bridge designed by Sverdrup & Parcel, a St. Louis company that no longer exists and couldn't be sued even if it did Minnesota's 10-year statute of limitations ran out decades ago.

Attorneys for the victims instead are considering lawsuits against the state Department of Transportation, the consultant hired to extensively inspect the bridge and the construction company that was resurfacing the span when it fell. The Interstate 35W bridge collapsed Aug. 1, killing 13 and injuring 145.

"The victims have a bit of a disadvantage here because they can't go after the designer, which would be the most direct way to get at this," said Anthony Lehr, a construction attorney and partner at Bryan Cave LLP in Chicago.

Those seeking money and accountability will argue that others contributed to the disaster. National Transportation Safety Board Chairman Mark Rosenker said investigators still don't know what caused the too-thin plates to fail.

One legal expert on structural failure questioned whether Minnesota's transportation department should have checked the designer's math on the gusset plates when it renovated the bridge in 1977 and 1998, loading it up with more pavement and railings.

"Should not the state transportation people have gone back and revisited and looked at the gusset plates and seen whether the new load conditions justified keeping that design in place, and should it have been supported by additional structural supports?" said Barry LePatner, a construction attorney in New York.

The state's liability for the collapse might come down to a jury determining whether a "reasonably careful" transportation agency would have analyzed the gusset plate design, Lehr said.

"There were so many red flags and alarms going off with this bridge that the state knew about," said Chris Messerly, an attorney with a pro bono coalition representing 67 victims and their families.

Still, even if the state were found responsible, its liability tops out at \$1 million per incident. Victims might get more than that through a victim compensation fund being considered by state lawmakers, but they would probably have to give up their right to sue the state.

Private companies could also end up in court over the bridge collapse.

URS Corp., based in San Francisco, was hired by the Minnesota Department of Transportation to do in-depth inspections and analyses of the bridge including computer models but did not discover the problem with the thickness of several gusset plates.

"They as engineers are going to have to explain why in all the years they spent working on this and the hundreds of thousands of dollars they received, they did not spot this glaring design deficiency," said Jim Schwebel, a Minneapolis attorney for some of the victims.

State bridge engineer Dan Dorgan said the computer modeling didn't go into that level of detail.

URS declined to comment on the latest NTSB findings, according to Ron Low, a spokesman for the company's public relations firm.

Progressive Contractors Inc., based in St. Michael, Minn., had a crew working on the bridge when it collapsed, including one worker, Gregory Jolstad, who was killed.

Federal investigators are still determining whether the construction work played a role in the collapse, and legal experts said the contractor could be named in lawsuits.

In a statement, company vice president Tom Sloan said the NTSB's latest focus was "entirely consistent with our previous statements that we were performing routine repairs and did nothing wrong. PCI's workers on the bridge as well as the traveling public were all victims of this terrible accident."

The National Transportation Safety Board's ultimate findings will carry significant weight in court, but the attorneys for the victims aren't taking that as the final word. They're still waiting

for the federal authorities to give their experts access to bridge collapse wreckage to conduct their own probe.

And one state lawmaker Senate Transportation Committee Chairman Steve Murphy said the NTSB's findings may be questionable because of the involvement of Wiss Janney, an engineering firm working for the state. Murphy said he suspects Wiss Janney's role is to deflect blame from the state transportation department.

"Everybody should look at that report with skepticism," said Murphy, DFL-Red Wing.

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