Adam Fry's conduct. As most relevant here, Defendant is vicariously liable if: (1) Levi Lewis — a "principle" or "managerial agent" of Defendant — "ratified or approved" Adam Fry's act of assisting Plaintiff in using the handlift; and (2) Levi Lewis did this while "knowing of" the act's "character and probable consequences." Minn. Stat. § 549.20, subd. 2. Plaintiff has presented evidence capable of supporting both of these elements before a jury.

As to the first element, it is uncontested that Levi Lewis did not verbally direct Adam Fry to assist Plaintiff. But he was present when the request was made for one of Defendant's employees to assist Plaintiff, and he was there when Adam Fry volunteered to do so. Levi Lewis was aware of what was happening, and he did not intervene. It is logical to conclude that everyone involved understood Adam Fry to be acting within the scope of his employment. And his manager was right there to direct him if he was acting inappropriately. This raises the inference that his actions were authorized. It is true that, to conclude that Levi Lewis implicitly ratified or approved Adam Fry's acts, a jury would have to draw inferences from these circumstances that are contestable. But, at this stage in the proceedings, the Court must assume that the jury would draw all reasonable inferences in favor of Plaintiff. The Court cannot find that it would be unreasonable to infer that Adam Fry was acting with his employer's approval.

As to the second element, a jury could conclude that Levi Lewis knew the character and probable consequences of Adam Fry's acts. He knew that Adam Fry was volunteering to help assist a novice handlift user who needed to get to the headhouse. And Adam Fry had been pulling the counterweight chain in order to assist Levi Lewis in using the handlift. Thus, Levi Lewis could foresee that Adam Fry would similarly be pulling the chain for Plaintiff. Additionally, it is uncontested that Levi Lewis knew that assisting Plaintiff in going up in the handlift was dangerous, because the lack of a brake made the handlift unsafe for use, especially

for novice users. Thus, the evidence supports that Levi Lewis knew the character of Adam Fry's acts. He was disregarding the directive of Defendant's majority shareholder that no one should use the handlift. Whether the accident that ensued was a "probable consequence" of disregarding that directive is a question properly left to the jury to determine from all of the circumstances.

Conclusion

In summary, the Court agrees with Defendant that it must examine the totality of the record in order to determine whether Plaintiff has set forth a *prima facie* case for punitive damages. And the Court agrees with Defendant that many of the facts alleged by Plaintiff do not speak to the threshold issue of whether there was deliberate disregard shown for his rights. At the core of these allegations, however, is evidence that an employee knew that the handlift was in no condition for Plaintiff to safely ride it, but that the employee went along with the request to send Plaintiff up in that handlift anyway. If proven at trial, these facts would support a showing of deliberate disregard for Plaintiff's safety. Plaintiff has also presented evidence allowing a jury to conclude that Defendant is liable for its employee's decision to go along with the request. Defendant's foreman was right there, he knew what was happening, and he did not object. A jury is entitled to look at all of the circumstances to determine whether this constituted implicit authorization of the employee's actions.

Motion to Amend Granted.