

SOUTH CAROLINA Lawyers Weekly

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After failing to pay \$95K, insurer agrees to pay \$11.7M

By Heath Hamacher



Shelly Leeke



David Yarborough

A WOMAN who would have been satisfied with \$95,000 in insurance money after being injured in a car crash has settled her personal injury claim for more than \$11.7 million after the insurer initially refused to tender its liability limits, her attorneys report.

Shelly Leeke and Jessica Corley of Shelly Leeke Law Firm in Columbia and David Yarborough of Yarborough

Applegate in Charleston report that their client, 57-year-old Joyce Fogle, suffered serious injuries when she was rear-ended in June 2019 while driving in Orangeburg County. The attorneys said that the at-fault driver was following too closely and was solely responsible for the crash.

Fogle suffered a dislocated disc in her back and several injuries to her knee, leg, and neck, Yarborough said. She sought chiropractic care and underwent several other therapies but ultimately required surgery for her back injuries, and still suffers from residual pain.

The attorneys said that State Farm carried both the at-fault driver's liability policy and Fogle's underinsured motor-

ist policy. The UIM adjuster tendered the \$50,000 policy limits, but the liability adjuster refused to do so until the lawsuit was filed.

"Only then did State Farm offer to tender its [bodily injury] and [property damage] policy limits of \$150,000, but its untimely offer was rejected," Yarborough wrote in an email to Lawyers Weekly, adding that the insurer "bungled" the handling of the case on several occasions.

"The lawsuit was delivered both to the State Farm agent by personal counsel for the Defendant and to the adjuster, and they still dropped the ball," Yarborough wrote.

Fogle's attorneys said that the insurer thereafter failed to hire counsel and defend the lawsuit in a timely manner, and that State Farm's negligence caused a default judgment to be entered against the at-fault driver.

Yarborough said that the insurer promptly paid the \$11.7 million settlement—a multiple of Fogle's actual damages and what plaintiff's attorneys felt was an appropriate value, given State Farm's misconduct—after their client issued an "escalating" time-sensitive demand.

Court records show that Fogle presented evidence of more than \$170,000 in medical expenses and that Judge Edgar Dixon found that she was also entitled to damages for physical pain and suffering, mental and emotional pain and anguish, loss of enjoyment to her

SETTLEMENT REPORT— Motor Vehicle Crash

AMOUNT: \$11,736,528.98

INJURIES ALLEGED: Dislocated disc, several injuries to the leg, knee, and neck, residual back pain

CASE NAME: Joyce Fogle v. Taylor Merritt

COURT: Orangeburg County Circuit Court

CASE NO.: 2021-CP-38-01375

JUDGE: Edgar Dixon

DATE OF SETTLEMENT: March 14

HIGHEST OFFER: \$150,000

SPECIAL DAMAGES: Past medical bills of \$145,081.88

INSURANCE CARRIER: State Farm

ATTORNEYS FOR PLAINTIFF: Shelly Leeke and Jessica Corley of Shelly Leeke Law Firm in Columbia and David Yarborough of Yarborough Applegate in Charleston

life, permanent impairment, and the loss of her earning capacity.

Leeke said that Fogle was forced into bankruptcy and nearly lost her home because her injuries prevented her from working.

"Luckily for her, we didn't have to just accept the last pre-suit offer from State Farm, which was below value of her injuries," Leeke said. "We had the resolve and the resources to fight for a full measure of damages by filing a lawsuit and ultimately capitalizing on State Farm's mistakes. By doing so, we were able to recover an eight-figure settlement for Ms. Fogle which will allow her to keep her home and be comfortable for the rest of her life."