

SOUTH CAROLINA Lawyers Weekly

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VERDICTS & SETTLEMENTS

Elevator death leads to \$20M settlement

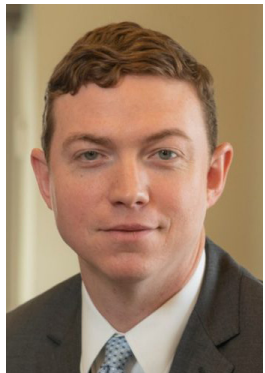
■ Heath Hamacher

THE ESTATE OF A MAN killed after falling approximately 60 feet from an elevator he was working on has settled its claims for wrongful death and negligence, among others, for \$20 million.

Attorneys for Lennox Hinckson said that the 65-year-old immigrated from Guyana in the 1980s and made a career in America installing, servicing, and maintaining elevators. Hinckson worked for Alimak Elevator Company and traveled the country working on industrial elevators. The North Charleston resident was working locally in December 2019, providing “stand by” service during a corporate tour of Holcim’s Holly Hill cement plant when the incident occurred.



David Yarborough



Perry Buckner

Two of Hinckson’s attorneys, David Yarborough and Perry Buckner of Yarborough Applegate in Charleston, said that Hinckson was performing an impromptu repair job on a pre-heater elevator stopping short of the fourth-floor landing, adjusting a limit switch.

The attorneys said that Holcim’s personnel failed to abide by their third-party contractor safety policies and procedures to provide Hinckson a safe workplace by notifying the control room operators, who typically limit and restrict access to workers in certain areas, that Hinckson was on site.

“Holcim employees were working in and around the pre-heater tower area and using the subject elevator there without restriction,” the attorneys wrote in an email to Lawyers Weekly. “No warning signs, barricades, or other notifications were in place to warn that elevator repair work would be performed.”

The attorneys said neither the plant supervisors nor the safety team had discussed Hinckson’s presence on the property during any safety or planning meetings.

“In fact, the Holcim employee typically responsible for coordinating safety protocols for Alimak contractors like Lennox Hinckson was on vacation on this specific day,” the attorneys wrote.

Shortly after Hinckson began his work from atop the elevator cab, the attorneys said, a Holcim employee called the elevator from a lower floor. The “unexpected, downward descension” caused catastrophic crush injuries to Hinckson, who fell approximately 60 feet and died almost instantly.

After meeting with representatives of the Mine Safety and Health Administration in New York, plaintiff’s counsel filed suit against Holcim and four individual defendants.

“A preliminary investigation demonstrated that Holcim had a poor safety record with respect to MSHA fines and regulations,” the attorneys wrote. It was also discovered that Holcim had been issued and paid fines related to the investigation into Lennox Hinckson’s death.”

The attorneys said that litigating against “Big Concrete” was challenging. After discovering that Holcim’s corporate management was immediately involved in the death investigation, the attorneys sought records of the company’s internal investigation and communications. Over the defense’s objection and after extensive briefing, the attorneys said, the court ordered the defendants to produce the evidence.

“This proved to be a significant turning point in the case and demonstrated that the defense of the case didn’t necessarily align with the internal corporate investigation,” the attorneys wrote.

The defendants were represented by G. Mark Phillips Jr., Sam Outten, and Jonathan Knicely of Nelson Mullins Riley & Scarborough in Charleston, Greenville, and Columbia, respectively.

But in their email, plaintiffs’ lawyers Yarborough and Applegate wrote that the defense blamed Hinckson for failing to properly restrict power to the elevator. But the depositions of more than a dozen Holcim employees paint Hinckson as someone who took safety very seriously.

“Counsel was successful in getting many of these deponents to admit that Holcim did not abide by their own policies and procedures relating to contractor

SETTLEMENT REPORT- WRONGFUL DEATH/ PREMISES LIABILITY

AMOUNT: \$20 million

INJURIES ALLEGED: Death, conscious pain and suffering, grief, trauma, loss of companionship

CASE NAME: Sonia Antoine and the Estate of Lennox Hinckson v. Holcim (U.S.), Inc. et al.

COURT: Orangeburg County Circuit Court

CASE NO.: 2020-CP-38-00265

MEDIATOR: Kurt Rozelski

DATE OF SETTLEMENT: June 2022

MOST HELPFUL EXPERTS: Jack Spadaro (mine safety), Dr. Kim Collins (pathologist), Oliver Wood, Ph.D. (economist), Stephanie Borzendowski (human factors), and Michael Sutton (accident reconstruction/engineering)

INSURANCE CARRIERS: Chubb, Zurich North America, and Allianz

ATTORNEYS FOR PLAINTIFF:

David Yarborough and Perry Buckner of Yarborough Applegate in Charleston, Greg Deluca of Deluca Maucher in Goose Creek, and David Williams of Williams & Williams in Orangeburg

ATTORNEYS FOR DEFENDANT:

G. Mark Phillips Jr., Sam Outten, and Jonathan Knicely of Nelson Mullins Riley & Scarborough in Charleston, Greenville, and Columbia, respectively

safety,” the attorneys wrote. “Additionally, it became clear that Holcim had enacted a multitude of new policies in light of Lennox’s death to make the plant safer for third-party contractors.

The plaintiffs were also represented by Greg Deluca of Deluca Maucher in Goose Creek and David Williams of Williams & Williams in Orangeburg.