

Worker crushed by rail car settles claim for \$6M

■ BY BILL CRESENZO

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Buckner



Yarborough

A railroad worker who was crushed by a rail car has settled a pre-lawsuit claim against the railway owner for \$6 million, his attorneys report. David Yarborough Jr and Perry Buckner, IV of Yarborough Applegate in Charleston report that their client, whose name was withheld, was working to secure an air hose to a brake line underneath a rail car when the car, which was on a jack but not on a jack stand, shifted and pinned him to the ground.

The client was knocked unconscious and suffered injuries including a brain hemorrhage, scalp fracture, multiple rib fractures, a hemopneumothorax (air and blood in the chest cavity) scalp laceration, cervical fractures and a near-amputation of his left ear.

Railroad employees aren't covered under workers' compensation, but are covered by the Federal Employers' Liability Act. The client alleged that the railway's owner had a pattern of putting rail car workers in its repair division in dangerous conditions that violated industry and federal railroad safety regulations, Yarborough said. The railway permitted its workers to work under rail cars without jack stands and permitted them to work under rail cars that were loaded with cargo "The workers had been complaining they didn't want to work on loaded cars because of how heavy they were," Yarborough said. "They were worried that someone like this might happen, but their complaints went

unacknowledged until this happened. Our client loved working for the railroad. He wants to be able to go back to work for the railroad, and he did not want to sue them."

The railway proposed mediation before a lawsuit was filed.

"The good news for him was that they loved him also," Yarborough said. "He was their model employee prior to being hurt."

The client has made progress in his recovery, but has not returned to work, Yarborough said.

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SETTLEMENT REPORT — FEDERAL EMPLOYERS LIABILITY ACT

Amount: \$6 million

Case name: Claim settled before lawsuit was filed

Injuries alleged: Brain hemorrhage, scalp fracture, multiple rib fractures, hemopneumothorax (air and blood in the chest cavity), scalp laceration, cervical fractures, and near-amputation of left ear

Date of settlement: Feb. 24

Attorneys for plaintiff: David Yarborough, Jr. and Perry Buckner, IV of Yarborough Applegate in Charleston

Attorneys for defendant: Withheld