

# Workplace attack results in \$850K settlement

By AMBER NIMOCKS, staff writer

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A woman whose ex-boyfriend beat her with a miniature baseball bat while she was at work has settled a suit against her employer and a security company for \$850,000.

Mount Pleasant attorney William Applegate, who represented the plaintiff, said the woman was at work about 1 a.m. at a South Carolina power plant, where she was employed by plant subcontractor, TTI Synfuel Operations Inc. The plaintiff's ex-boyfriend, who had been a fellow employee, entered the plant and assaulted her. She was hospitalized and treated for head trauma. Before the attack, she had told her supervisor and security officers that she feared her ex because he had threatened her with violence. At the time of the incident, the plaintiff was 28. She has two children.

Applegate said the lawsuit claimed the security firm, Confidential Security Co., failed to protect the plaintiff, who was a third-party beneficiary of the contract between it and the power plant. Confidential Security denied responsibility for the plaintiff's safety, claiming it was contracted to secure the power plant's property and employees, but not employees of subcontractors.

"Obviously that was a position that probably would not have played out very well at a trial because it sort of defied common sense," Applegate said.

He said testimony from power plant officials would have contradicted the defendant's claims regarding their responsibilities. The defense also claimed that liability for the plaintiff's damages rested solely with her attacker.

"Our jury research showed that people felt very strongly that when you are there providing service at a facility, especially for someone who is working in the middle of the night, that she should be kept safe," Applegate said.

## Verdicts & Settlements Report

**Type of action:** Personal Injury, negligence

**Injuries alleged:** Physical trauma, mild traumatic brain injury

**Case name:** *Nakia Gourdine v. Confidential Security Co. and TTI Synfuel Operations, Inc.*

**Date of settlement:** 4/16/12

**Amount:** \$850,000

**Highest offer:** \$100,000 at mediation

**Special damages:** \$17,200 in past medicals, \$420,000 in future medicals

**Plaintiff's Counsel:** William E. Applegate IV and David B. Yarborough Jr. of Yarborough Applegate (Mount Pleasant) and Dwight Moore (Sumter)

**Has the plaintiff been successful in collecting the judgment?** Yes

The lawsuit also claimed that TTI failed to provide a safe workplace.

The plaintiff's work station was in a trailer about a half-mile from the main entrance to the power plant, which spanned a few hundred acres. According to Applegate, the ex-boyfriend said he

hired a taxi to drive him to the power plant and that he entered through the main gate, which was unattended. Confidential Security officials claimed the ex-boyfriend entered through a different, unmanned gate that was left open. According to officials of the power plant,

"Obviously that was a position that probably would not have played out very well at a trial because it sort of defied common sense."

*Attorney William Applegate,*

Confidential Security was contracted to keep all the plant's unmanned gates locked 24 hours a day.

Applegate said the attack left the plaintiff with brain injuries whose symptoms include headaches, sensitivity to light, and an inability to focus mentally.

"After this, she really was incapable of performing at the same level at a full-time, eight-hour-a-day job," he said.

Confidential Security agreed to pay \$750,000 of the settlement, and TTI agreed to pay \$100,000, Applegate said.

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