

Construction site accident leads to \$1.475M settlement

Plaintiff wasn't supposed to be working at site, had been asked to help

■ BY PHILLIP BANTZ
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A man who was injured after agreeing to help workers at a construction site in Mount Pleasant has negotiated a \$1.475 million settlement with the insurers for two contractors and a crane service company involved in the incident.

The plaintiff, A. Yuri Stolf, was not working on the day of the accident. He had stopped by the site to meet with his brother, a project manager for framing contractor Status Construction, said Stolf's attorney, David B. Yarborough Jr. of Yarborough Applegate in Charleston.

Stolf was leaning against his parked car, waiting for his brother to arrive, when a crane operator working for Jeff's Crane Service asked him to hook a chain to a stack of roof trusses leaning against a tree. Stolf was helping the crane operator when the trusses crashed down onto him, breaking his back in two places, Yarborough said.

He added that Stolf, who had been a self-employed construction contractor, can no longer work because of his injuries – he had rods, screws and metal plates inserted into his back, suffers from chronic pain and was left with nearly \$520,000 in past medical bills and an estimated \$1 million in future treatment costs, Yarborough said.

Stolf, 39, filed suit in the Charleston County Court of Common Pleas against Status and one of its subcontractors, Sacor Construction, which had been working on the job site when he was hurt. Sacor's insurer, Underwriters at Lloyd's London, and Status' insurer, the Accident Insurance Company, countersued in federal and state court, respectively. Lloyd's argued that its policy did not cover volunteer workers while Accident contended that Status had violated certain coverage requirements of its policy.

Status turned around and countersued Accident for breach of contract and bad faith, a move that

Yarborough said played a "big factor in helping resolve that declaratory judgment action and getting the whole thing settled with Accident."

As for Lloyd's action, Yarborough had contended that Stolf did not qualify as a volunteer laborer because he had no intention of working when he went to the job site to meet his brother. "He was simply a bystander who had been asked to complete a certain task," he said.

Lloyd's attorney, Edward K. Pritchard III of Pritchard & Elliott in Charleston, disagreed, saying that "it seemed crystal clear that he was volunteering," but added that the more troublesome question was whether he was volunteering for Sacor, Status or the crane operator.

Lloyd's ultimately opted not to test its volunteer theory at trial. After two mediation sessions, the insurer settled on behalf of Sacor for \$725,000 on the eve of its declaratory judgment trial in late July. In early September, Accident agreed to pay a \$700,000 settlement for Status shortly before the underlying liability case was set for trial, according to Yarborough.

He hired a private investigator to track down the crane operator, who left the state after Stolf was injured, but the effort proved unsuccessful. Still, the crane company's insurer, Progressive, paid its \$50,000 policy limit to Stolf on Oct. 9, Yarborough said.

Sacor's attorney, Christopher M. Adams of Collins & Lacy in Columbia, said that the severity of Stolf's injuries coupled with the unpredictability of a jury trial spurred negotiations and led to the settlement.

"I think all sides saw the risk," he added. "The insurers settled their cases for less than the policy limits without having to admit liability and the plaintiff got a nice settlement without having to risk not getting a verdict for what he would have sought."



Emergency workers assist A. Yuri Stolf at the accident scene.

SETTLEMENT REPORT

PERSONAL INJURY

Case name: *Ateras Y. Stolf v. Status Construction, Sacor Construction and Edgar Acabal*

Case number: 2012-CP-10-17-7

Court: Charleston County Court of Common Pleas

Date of settlement: Separate settlements between July 31 and Oct. 9

Amount: \$1.475 million total

Attorney for plaintiff: David B. Yarborough Jr. (Charleston)

Attorneys for defendants: Christopher M. Adams (Columbia), L. Gregory Horton (Charleston), Everett A. Kendall II (Columbia)

Has the plaintiff been successful in collecting the judgment? Yes

Stolf, who had been a self-employed construction contractor, can no longer work because of his injuries – he had rods, screws and metal plates inserted into his back, suffers from chronic pain and was left with nearly \$520,000 in past medical bills and an estimated \$1 million in future treatment costs.

Woman's fatal tumble from wheelchair lift prompts \$500K settlement

■ BY PHILLIP BANTZ
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The family of a wheelchair-bound woman who rolled off a raised mechanical lift while she was being loaded onto a county public transportation van and later died has negotiated a \$500,000 settlement.



David Yarborough

Shirley Walker, a 56-year-old double amputee, fell from a Barnwell County-affiliated Local Motion van owned by Generations Unlimited, said an attorney for her family, David B. Yarborough Jr. of Yarborough Applegate in Charleston.

He alleged that the van's driver failed to strap Walker's wheelchair onto the lift or stay behind her to spot her while she was being raised

into the van. Instead, the driver left her alone and when she released the brakes on her chair and tried to roll herself into the van she fell backward, Yarborough said.

Walker's neck was broken in the fall and she was paralyzed from the neck down, enduring "extreme pain, suffering, and emotional distress for the 73 days she was hospitalized for these injuries and up until her death on April 2, 2013," according to Yarborough.

He added that because Generations Unlimited is a quasi-governmental agency that is entitled to protection under the state's Tort Claims act, the most Walker's family could have recovered on its survival and wrongful death claims was \$600,000, or \$300,000 for each action.

The only defense that Generations Unlimited had indicated prior to the case settling pre-suit was comparative negligence, asserting that

SETTLEMENT REPORT

WRONGFUL DEATH – LOSS OF CONSORTIUM

Case name: *Estate of Shirley Walker vs. Generations Unlimited d/b/a Local Motion*

Case number: 2013-CP-06-083

Court: Barnwell County Court of Common Pleas

Date of settlement: Aug. 26

Amount: \$500,000

Attorney for plaintiff: David B. Yarborough Jr. (Charleston)

Attorney for defendant: N/A

Has the plaintiff been successful in collecting the judgment? Yes

Walker was partly to blame for the accident, according to Yarborough.

"The damages were just so catastrophic that I argued even if there

was some small assignment of liability to Ms. Walker," he said, "the ultimate award would still greatly exceed the limits of the caps."