

## Man hurt by makeshift stairs settles suit for \$2.35M



**David Yarborough**



**Liam Duffy**

■ BY BILL CRESENZO

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A drywall worker who suffered severe injuries after a set of “pathetically built” makeshift stairs collapsed while he was working at an Edisto Island home has confidentially settled a lawsuit against the subcontractor who built the stairs, the general contractor, and the homeowner for \$2.35 million, his attorneys report.

David Yarborough and Liam Duffy of Yarborough Applegate Law Firm in Charleston and Kevin Smith of Hoffman Law Firm in North Charleston report that their client, whose name was withheld pursuant to a confidentiality agreement, was carrying construction materials up the stairs in 2016 when they collapsed and he fell 15 feet to the concrete below.

The worker sustained a spinal cord injury with persistent bowel, bladder, and sexual dysfunction, right-lower extremity weakness with knee instability, and a closed head injury (a type of traumatic brain injury) with post-concussive disorder. He now suffers from nightmares, which cause him to scream and moan—none of which occurred prior to the fall.

“Prior to his injuries, he was of great help to his family around their house, by cooking, cleaning, repairing broken items, doing yard work, and even remodeling the home,” Yarborough said. “He used to love playing soccer with his kids and family members. All of that has changed as a result of this incident. He is no longer able to assist around the house the way he once could, and he and his wife have not been intimate since his fall.”

The worker contended that the subcontractor who built the stairs was liable because the stairs were not compliant with the building code, lacked the required bolts or bracing or ledgers, and were unable to support a reasonable and expected load during the course of construction. Photos taken after the collapse show that the bottom, weight-bearing, portion of the stairs was attached to the adjacent landing area with no more than a few small nails, Yarborough said.

“The owners of the subcontracting framing company were both unlikable and unbelievable,” Yarborough said. “In our demand, we stated ‘They will have no credibility with a jury and, frankly, anyone left in the case who has any part of hiring and allowing them to work on the job site will face certain liability as well. They are admitted habitual drunks, drug users and [the subcontractor] is an admitted liar.’”

The insurance carrier for the subcontractor ultimately tendered its \$500,000 policy limits.

The worker argued that the general contractor was also negligent in the selection and supervision of the subcontractor and failure to inspect the premises. The GC moved for summary judgment, raising the statutory employer defense, which would have required the claims to be resolved via workers’ compensation.

But the worker argued that because the GC, who had no employees, never physically performed any construction services, it was more akin to a mere coordinator of other services and trades, and therefore the worker’s drywall installation work was not actually “part of” the work that the GC would normally do. After

### SETTLEMENT REPORT – CONSTRUCTION ACCIDENT

**Amount:** \$2,350,000

**Injuries alleged:** Spinal cord injury; persistent bowel, bladder, and sexual dysfunction; right-lower extremity weakness with knee instability; and closed head injury with post-concussive disorder

**Case name:** Withheld

**Court:** Colleton County Circuit Court

**Most helpful experts:** Alan Campbell of Applied Building Sciences in Charleston (structural engineering)

**Date of settlement:** Nov. 1

**Attorneys for plaintiffs:** David Yarborough and Liam Duffy of Yarborough Applegate Law firm in Charleston and Kevin Smith of Hoffman Law Firm in North Charleston

**Attorneys for defendants:** Withheld

the GC’s summary judgment motion was denied, its insurance carrier offered \$350,000 to settle the claim.

The worker also contended that the property owner owed him the highest duty of care under the law to take safety precautions and discover and eliminate risks. He claimed that the homeowner should have inspected the stairs and taken the necessary steps to remove or warn of any dangers, and because he failed to do so, he was liable for the injuries resulting from the breach of his duty.

“This was not a typical jobsite,” Yarborough said. “The homeowner was not an ordinary, know-nothing homeowner when it comes to familiarity with the construction process. In fact, he was an experienced electrical contractor who was on the jobsite often, even self-performing a large portion of the work through his own company and employees.”

The property owner’s insurer paid \$1.5 million, leading to the total settlement of \$2.35 million, which was finalized on Nov. 1.

The subcontractor and GC claimed the stairs were properly constructed and that they had been in use for over a month prior to their collapse, and argued that the building inspector for the Town of Edisto had inspected the job site and it passed inspection prior to the collapse, Yarborough said.

The identities of the defendants and their counsel were also withheld pursuant to the confidentiality agreement.

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