

L SOUTH CAROLINA Lawyers Weekly

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VERDICTS & SETTLEMENTS

\$15.75M settlement for fall that led to paraplegia

■ Heath Hamacher



Applegate



Duffy



Dodds

A woman who was rendered paraplegic after falling from a scaffold at a Louisiana worksite has settled her claims for nearly \$16 million.

Plaintiff Meylin Castro reported for work on July 12, 2017, as a temporary constructor laborer on an asbestos abatement project at a church near Baton Rouge, Louisiana. While working on a scaffold, Castro fell approximately 20 feet through an unmarked, unguarded gap covered with a sheet of polyethylene plastic used to create a “containment area” for the asbestos project.

One of Castro’s attorneys, William Applegate of Yarborough Applegate in Charleston, said that these types of companies must continue to be held accountable for what is “simply astounding” conduct at the expense of their own employees.

“Unfortunately, with companies that use immigrant labor, cutting corners on safety has become the norm but we have learned through experience that juries will not put up with companies who shirk their responsibilities to the very people who make them run.”

Castro claimed that the scaffolding was negligently built by defendant Sunbelt Rentals without guard rails required by OSHA regulations, leaving a dangerous open end of the scaffold. After construction of the scaffold, defendant 1 Priority covered the structure in plastic to create the containment zone for the asbestos, Castro’s attorneys said, adding that the quasi-opaque plastic created a false impression that the scaffold decking extended to the nearby wall.

Liam Duffy, also of Yarborough Applegate in Charleston, wrote in an email to Lawyers Weekly that “1 Priority also failed to give Ms. Castro any instruction, warning, training, supervision, or safety harness, despite being responsible for job site safety. The fall occurred on Ms. Castro’s first day on the job.”

Castro suffered a closed head injury and T3-level paraplegia. Her past medical bills totaled nearly \$1 million while Castro’s life care plan is approximately \$8 million, Duffy wrote.

Duffy said that the defendants “vigorously defended the case on every aspect of liability and damages,” blaming one another for creating the hazardous condition.

“For example, Sunbelt blamed 1 Priority for its failure to provide a safety harness, safety training, and supervision,” Duffy said. “Meanwhile, 1 Priority blamed Sunbelt for not building an OSHA-compliant scaffold. Both parties blamed Ms. Castro for not being careful enough, the church for failing to conduct daily inspections, and multiple other non-parties who would have been included on the verdict form at trial under Louisiana’s unique fault-apportionment scheme.”

Duffy said that the case involved complex and legal insurance coverage issues both at the trial level and during several interlocutory appeals filed by the defendants, the most significant of which involved 1 Priority’s assertion that it was immune from suit as Ms. Castro’s statutory employer. The 1st U.S. Circuit Court of Appeals agreed with the defendant, meaning that Castro’s only avenue of recovery against 1 Priority was to prove that the company knew an injury was “substantially certain to follow” from its action. This, Duffy said, would trigger the intentional act exception to her employer’s tort immunity.

“Despite this significant legal hurdle, Ms. Castro and her counsel were able to defeat multiple summary judgment motions and an appeal on this defense, which ultimately meant the question would be answered at trial by the jury,” Duffy wrote.

The case settled just one week before trial, after more than four years of litigation. Sunbelt agreed to pay \$8 million, 1 Priority paid \$6 million, and the church chipped in \$1.75 million after mediation in 2020.

SETTLEMENT REPORT- NEGLIGENCE/PERSONAL INJURY

AMOUNT: \$15.75 million

INJURIES ALLEGED: Paraplegia and closed head injury

CASE NAME: Meylin Castro v. Sunbelt Rentals Scaffold Services et al.

COURT: 19th Judicial District Circuit for the Parish of East Baton Rouge, Louisiana

CASE NO.: C669445

JUDGE: Trudy White

DATE OF SETTLEMENT: Sept. 12

MOST HELPFUL EXPERTS: Chris Conti of Prairieville, Louisiana (OSHA/workplace safety), Cynthia Rando of Sophic Synergistics in Houston (human factors), Dr. Shelly Savant of Lafayette, Louisiana (life care planner), and Dr. Janyna Mercado of San Antonio (neuropsychologist)

INSURANCE CARRIER: Withheld

ATTORNEYS FOR PLAINTIFF: Liam Duffy, William Applegate, and John Dodds IV of Yarborough Applegate in Charleston and John Redmann and Edward Moreno of New Orleans

ATTORNEYS FOR DEFENDANT: Andrew Vicknair and Ashley Robinson of New Orleans (pre-trial counsel); James Williams, Inemesit O’Boyle, and Phillip La Borde of New Orleans; Todd Mensing, Paul Turkevich, and Kelsi White of Houston; and Martha Curtis of New Orleans

Duffy described Castro as a “wonderful woman” and said that the incident had had a profound impact on her and her family.

“The magnitude of their loss was matched only by the courage and perseverance they showed throughout the years of litigation,” Duffy said. “They’re proud to finally have the resolution and justice they fought so hard for.”