

SOUTH CAROLINA LAWYERS WEEKLY

NOVEMBER 13, 2017 | VOL. 17, NO. 12 | SCLAWYERSWEEKLY.COM | \$9.00 PER COPY

Injured worker gets \$4.25M

■ HEATH HAMACHER

heath.hamacher@sclawyersweekly.com



**William
Applegate**

A worker injured when he was struck by a falling heat pump reached a \$4.25 million settlement the Friday before his trial was set to begin, his attorneys have reported.



**David
Lail**

In July 2013, according to William Applegate IV of Yarborough Applegate in Charleston, Rene Cardoso reported to a downtown Charleston construction site, where he had been hired by a staffing agency to assist the electrical subcontractor. When he got there, defendant Mitchell Mechanical, an HVAC subcontractor from Alabama, was on site securing a nearly 300-pound water source heat pump in the ceiling. As Cardoso was waiting on the elevator, Applegate said, Mitchell employees dropped the heat pump, which bounced off a scissor lift before falling on top of Cardoso. Cardoso was taken to the Medical University of South Carolina, where he was diagnosed with a traumatic brain injury and several spinal injuries.

Applegate said that after more than a year of rehabilitation, his

client was still unable to work in the same capacity as before.

The workers who dropped the heat pump disappeared and could not be located, Applegate said, adding that there was “little to no” evidence of the scene and that neither the defendant nor the general contractor investigated the incident, despite its serious nature.

The company’s Rule 30(b)(6) witness testified that the lobby in which the accident occurred had been barricaded as required, despite witnesses who said otherwise, Applegate said.

“The Defense argued that Mr. Cardoso was negligent in allowing himself to be exposed to what was

an obviously dangerous environment despite there being multiple people that were also present at the scene and exposed to the same potential,” Applegate wrote in an email.

Applegate added that the defense also focused on Cardoso’s undocumented status, his use of a fake social security number, his failure to file annual tax returns, and his criminal background, and that these evidentiary issues were litigated up until the settlement.

Attorneys for the defendant did not immediately respond to a message seeking comment.

Follow Heath Hamacher on Twitter @SCLWHamacher

SETTLEMENT REPORT PERSONAL INJURY

Amount: \$4,250,000

Injuries alleged: Traumatic brain injury and cervical spine injury requiring a three-level anterior cervical discectomy and fusion

Case name: *Rene Cardoso v. Mitchell Mechanical, LLC*

Case No.: 2:16-cv-1058-PMO

Court: U.S. District Court for the District of South Carolina

Date of settlement: Aug. 18

Most Helpful experts: Alan Campbell, PE, RRC of Charleston and economist Dr. Oliver Wood of Columbia

Insurance Carriers: Zurich American Insurance Company and National Union Fire Insurance Company

Attorneys for plaintiff: William Applegate and David Lail of Yarborough Applegate in Charleston

Attorneys for defendants: Phillip Reeves, T. David Rheny, and Nicholas Farr of Gallivan, White & Boyd in Greenville