

Worker hit by shingles settles suit for \$4.225M

■ BY BILL CRESENZO

A construction worker who was severely injured after roof shingles fell on his head has reached a pre-lawsuit settlement against a construction company and its subcontractor for \$4 million, his attorney reports, after having settled a worker's compensation claim for \$225,000.



Chip Cannon

Chip Cannon of Riesen DuRant in Charleston said that his client, Marllon de Oliveira, who had just moved to the United States with his family from Brazil, was walking across a plywood walkway off of the front porch of an unfinished house in 2017. At the same time, a roofer threw a 68-pound pack of shingles off the roof. They hit Oliveira in the head, knocking him unconscious and requiring that he be taken to a hospital. Oliveira had "extreme swelling" and was put into a neck halo for a week, before a neurosurgeon performed a cervical fusion. "Prior to his injuries, our client lived a very active lifestyle," Cannon said. "He was physically fit and very much involved in the lives of his children. He was an active member within his church where he volunteered in numerous aspects."

After the incident, Oliveira couldn't lift more than 10 pounds, had trouble sleeping, gained a significant amount of weight, and developed extreme irritability and psychological issues. Life care planner Lindsay Moore and economist Oliver Wood were retained as expert witnesses. Wood concluded that future economic damages were close to \$1,600,000; Oliveira's medical bills, meanwhile, totaled \$325,000.

Following the resolution of Oliveira's worker's compensation claim for \$225,000, Cannon discovered that the contracted roofing company, Alpha Omega Construction Group, had subcontracted the work, and that the subcontractor, Melinda Amador, was the party responsible for the shingle removal. Cannon contended that the contractor and subcontractor each owed separate and distinct duties of care, with both having acted recklessly in their conduct.

"The plywood walkway was, without question, the one area someone should not have been throwing shingles from a roof," Can-

non said. "The amount of foot traffic coming and going to a construction site is steady, and everyone is thankful our client was not paralyzed or even killed. This is a reminder of the dangers construction workers come in contact with on a daily basis."

Because the case was settled before any lawsuit was filed, the dispute was negotiated exclusively with Alpha Omega's insurance company. Part of Cannon's strategy was to incorporate "powerful" pictures of Oliveira and his family before and after his injuries, which said would have had a "huge impact" on a jury.

Under the terms of a settlement agreement reached on March 3, Alpha Omega's insurer, Builders' Mutual, agreed to pay \$3 million, and Amador's insurer, Evanston Insurance Co., agreed to pay \$1 million. Both figures constituted the company's full policy limits.

"We were able to get the Alpha Omega to pay because of their responsibility in failing to properly hire subcontractors and oversee their work," Cannon said. "Had they done this, they would have presumably informed Melinda Amador on how to properly remove the shingles, but also a safer place to do so. Had a person just been on the ground assisting the man on the roof, he would have been able to control the flow of people in and out of the home."

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SETTLEMENT REPORT – NEGLIGENCE

Amount: \$4,225,000

Injuries alleged: Cervical fractures requiring fusion

Case name: Pre-lawsuit settlement

Date of settlement: March 3

Most helpful experts: Oliver Wood in Columbia (economist) and Lindsay Moore in Charleston (life care planning)

Insurance carrier: Builders' Mutual and Evanston Insurance Co.

Attorneys for plaintiff: Chip Cannon of Riesen DuRant in Mount Pleasant