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COUNTY and CASE: Hillsborough County Circuit Court

NAME OF CASE: Laura Flavell v. Sodexo American LLC

DOCKET NO.: 08-06144J **JUDGE:** Honorable L. Rodgers Padgett

PLAINTIFF(S) ATTORNEY(S)/TRIAL COUNSEL:

Paul Berg, Esquire
The Kennedy Law Group
Tampa, FL 33602

DEFENDANT(S) ATTORNEY(S)/TRIAL COUNSEL:

Richard B. Mangan, Jr., Esquire
Eric F. Ochotorena, Esquire
Rissman, Barrett, Hurt, Donahue & McLain, P.A.
Tampa, FL 33609

AGE/SEX/OCCUPATION OF PLAINTIFF:

Laura Flavell is a 41 year old white female who was a college student at the time of her injury.

For WRONGFUL DEATH cases, please give age and relationship of survivors:

N/A

DATE, TIME, and PLACE OF ACCIDENT or OCCURRENCE:

August 11, 2006 at approximately 11:00 a.m. on the 7th floor of Austin Hall dormitory at the University of Tampa.

CAUSE OF INJURY:

Ms. Flavell, while walking down the hallway of the dormitory at the University of Tampa, slipped and fell on water outside the dorm rooms in the common hallway. Upon falling, Ms. Flavell landed on her left elbow.

It was undisputed that Sodexo, through a contract for housekeeping services with University of Tampa, was in the process of cleaning the dorms as part of the end of semester maintenance.

As part of that process, Sodexo is sent to every dormitory room that is being vacated at the end of the semester for the purposes of cleaning the rooms and preparing them for the next set of students. Sodexo first sends a crew of floor techs that consists of three to six individuals who clean the floors of each dorm room by using a large scrubbing machine, a soap solution, and water. After the initial scrub, Sodexo floor techs go over the floors a second time manually with a mop and bucket of water. Finally, the floor techs clean what is left of the water on the floor by using a Wet Vac. After the floor techs have cleaned the floors in a dorm room, another set of custodial staff is sent to clean the remainder of each room.

Sodexo employees receive a list of rooms to be cleaned from the Office of Resident Life at the University of Tampa. The list of rooms includes all the rooms that have been vacated by the students. At trial, Ms. Flavell claimed that Sodexo should not have begun its cleaning process of the 7th floor of Austin Hall because all students had not vacated the rooms. In particular, Ms. Flavell argued she was still in the process of moving out of her room since check-out time was not until 2:00 p.m. The fall occurred at approximately 10:45 a.m. Ms. Flavell further claimed that there were no warning signs, cones, or any other individuals or devices that would indicate to her that the floors of the hallway might be wet at the time of her fall.

Sodexo placed two warning cones in the hallway where the cleaning was taking place. Sodexo did not dispute the fact that the floor was wet and that its workers were responsible for the water on the floor.

After her fall, security for the University of Tampa was called to the scene as were supervisors for Sodexo's cleaning crew.

NATURE OF INJURY:

EMS transported Ms. Flavell to Tampa General Hospital with complaints of severe elbow pain. Once at the hospital, Ms. Flavell underwent approximately six hours of surgery to repair the comminuted fracture to her left elbow, including the placement of two plates and seven pins. As a result of the elbow fracture, Ms. Flavell suffered an ulnar nerve injury which, at trial, Dr. Thomas DiPasquale related was permanent in nature. Approximately 10 months after her initial surgery, Ms. Flavell underwent a second surgery to remove the hardware from her left elbow. Medical expenses were in excess of \$90,000.

Subsequent to the removal of the hardware, Ms. Flavell claimed that she continued to suffer from this injury, including reduced strength and range of motion in her left arm as well as continued numbness, loss of sensation and pain. At trial, Dr. DiPasquale testified that Ms. Flavell's injury was permanent, that she would need therapy for her injury in the future, and that she would eventually need a total elbow replacement surgery at a cost of \$50,000..

PLAINTIFF'S EXPERT WITNESSES:

Dr. Thomas DiPasquale is an orthopedic surgeon. Dr. DiPasquale performed Ms. Flavell's initial surgery on her left elbow. He opined that Ms. Flavell would need future care and therapy for her left elbow and that she would, more likely than not, need a total elbow replacement.

DEFENDANT'S EXPERT WITNESSES: None.

CHECK APPROPRIATE SPACE: X Verdict for Defendant

DATE OF VERDICT: September 22, 2009

VERDICT: Defense verdict.

COMPARATIVE NEGLIGENCE: None.

DATE OF JUDGMENT: September 24, 2009

DEFENDANT'S OFFER: \$30,000 (Proposal for Settlement)

PLAINTIFF'S DEMAND:

Pretrial: \$500,000;
At trial: \$650,000.

ATTORNEY'S COMMENTS:

The jury found that Sodexo did not breach its duty of care to the plaintiff and that the methods and safety precautions it took when cleaning the dorm rooms on the 7th floor of Austin Hall at the University of Tampa on August 11, 2006 were appropriate.

Defendant's Motion to Tax Costs and Attorney's Fees pursuant to Proposal for Settlement is pending.

Submitted By: Richard B. Mangan, Jr., Esquire, and Eric F. Ochotorena, Esquire

Date: November 3, 2009

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