

CASE INFORMATION SHEET  
FLORIDA LEGAL PERIODICALS, INC.  
P.O. Box 3370, Tallahassee, FL 32315-3730  
(904) 224-6649/(800) 446-2998 \* FAX (850) 222-6266

**COUNTY AND COURT:**

Volusia County Circuit Court

**NAME OF CASE:**

JEANNE CATES and ERNEST CATES,

Plaintiffs,

v.

MOWREY ELEVATOR COMPANY OF FLORIDA, INC. and DARRELL BAGGETT,

Defendants.

**CASE DOCKET NO.:** 2004-31436-CICI  
DIVISION: 32

**JUDGE:** William A. Parsons

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

Christopher W. Wickersham, Sr., Esq.  
Wickersham & Bowers  
Daytona Beach, FL

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

**DEFENDANT - MOWREY ELEVATOR COMPANY OF FLORIDA, INC.**  
Art C. Young, Esq.  
Rissman, Barrett, Hurt, Donahue & McLain, P.A.  
Orlando, FL

**DEFENDANT - DARRELL BAGGETT**

Robert A. Kingsford, Esq.  
Marshall, Dennehey, Warner, Coleman & Goggin, P.A.  
Orlando, FL

**AGE/SEX/OCCUPATION OF PLAINTIFF OR DECEDENT:**

Mrs. Cates was 58 years old (DOB: 12/22/45) on the date of incident and worked at T-Chek as an authorization clerk.

**FOR WRONGFUL DEATH CASES, PLEASE GIVE AGE AND RELATIONSHIP OF SURVIVORS:**

N/A

**DATE, TIME AND PLACE OF ACCIDENT OR OCCURRENCE:**

December 29, 2003 at 6:00 a.m. Mrs. Cates was entering the premises known as Reflections Point located at 700 W. Grenada Boulevard in Ormond Beach, Volusia County, Florida.

**CAUSE OF INJURY:**

Mrs. Cates took the elevator to the second floor where she worked. As she was departing the elevator, she claimed to have stumbled and lost her footing as a result of a misleveling of the elevator. She fell forward fracturing her elbow and patella.

**NATURE OF INJURY:**

Mrs. Cates' current complaints were her left arm, forearm, elbow and patella. She also complained about her left shoulder, left hip, left leg and left foot. Later, she added that she was having headaches related to this accident as a result of hitting her head on the wall. She was diagnosed with RSD or complex regional pain syndrome.

Mrs. Cates had a workers' compensation lien of approximately \$439,968.51, including \$244,449.00 in medical payments.

**PLAINTIFF'S EXPERT WITNESSES:**

Kenneth Hawthorne, M.D.  
The Hawthorne Clinic  
Ormond Beach , FL

Dr. Hawthorne gave Mrs. Cates a 15% impairment rating.

Ralph J. Zwolinski, M.D.  
Port Orange, FL

Dr. Zwolinski diagnosed Mrs. Cates with RSD of the fractured elbow.

**DEFENDANT'S EXPERT WITNESSES:**

N/A

**CHECK APPROPRIATE SPACE:**      X   Motion for Summary Judgment

**DATE OF SUMMARY JUDGMENT:**

Motion for Summary Judgment was granted for Mowrey Elevator Company of Florida, Inc. on March 24, 2011.

**VERDICT/SETTLEMENT AMOUNT:**

Not applicable

**COMPARATIVE NEGLIGENCE:**

Not applicable

**JUDGMENT:**

Order granting Final Summary Judgment.

**DATE OF JUDGMENT:**

April 4, 2011

**DEFENDANT'S OFFER:**

On January 18, 2008, Mowrey Elevator Company of Florida, Inc. filed Proposals for Settlement to Mrs. Cates in the amount of \$20,000 and Mr. Cates in the amount of \$1.00.

**PLAINTIFF'S DEMAND:**

Plaintiffs' last demand was \$1.6 million.

**ATTORNEY'S COMMENTS:**

Judge Parsons granted Mowrey's Motion for Final Summary Judgment based on lack of constructive notice related to any misleveling

problem. Mowrey serviced the elevator monthly and the misleveling had never been reported to or discovered by Mowrey.

**Submitted** Art C. Young

**Date:** May 4, 2011

**By:**

**Firm:** Rissman, Barrett, Hurt, Donahue  
& McLain, P.A.

**Address:** 201 E. Pine Street, Suite 1500  
P.O. Box 4940  
Orlando, FL 32802-4940

**Telephone:** (407) 839-0120

**Fax:** (407) 841-9726

ACY/khi