

CASE INFORMATION SHEET
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COUNTY AND COURT:

Orange County
Civil Court

NAME OF CASE:

JOLIE COOK

Plaintiff,

v.

Raojidada Investments, Inc. d/b/a Howard Johnson Express

Defendant.

CASE DOCKET NO.: 2009-CA-15631-0 **JUDGE:** John Kest

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

David B. Moffett, Esquire
Morgan & Morgan
20 N. Orange Ave., Ste. 1600
Orlando, FL 32801

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

Juan A. Ruiz, Esq.
Rissman, Barrett et al.
201 E. Pine Str., 15th Floor
Orlando, FL 32802

AGE/SEX/OCCUPATION OF PLAINTIFF OR DECEDENT:

Jolie Cook was a 34 year old unemployed female at the time of the subject incident.

DATE, TIME AND PLACE OF ACCIDENT OR OCCURRENCE:

On August 3, 2008, at approximately 6:45 p.m., Ms. Cook checked into the Howard Johnson Express located at 1317 S. Orange Blossom Trail in Apopka. Shortly after checking in and entering her room, Ms. Cook walked towards the bathroom. Doing so required her to cross the threshold between the carpet and tile. She was talking on her cell phone at the time.

According to Ms. Cook, when she placed her right foot onto the tile, it slipped out from under her, causing her to fall backwards. She stated that she heard a snapping sound and felt something in her knee shift. She stated that there was something slippery on the tile which caused her to fall. However, Ms. Cook denied actually seeing anything on the floor and felt nothing damp.

About 1/2 hour later, her son went down to the front desk crying and stated to the front desk clerk, Sal Perez, that his mother had fallen. When Mr. Perez arrived at the room, he got down on the floor to see if he could find what it was that had caused Ms. Cook to slip. He could not find anything.

An ambulance was called. The paramedic who arrived, Dan Denault, stated that as he knelt on the tile next to Ms. Cook, he had a hard time keeping his knees together and he had to put a towel down under them. However, he did not see anything on the floor. When he touched it with his hand (which was gloved), he stated that it felt "greasy." Whatever was allegedly on the floor at the time of Ms. Cook's fall was never identified.

CAUSE OF INJURY:

Ms. Cook alleged that she sustained an injury to her right knee as a result of the alleged incident. She had previously undergone an ACL repair performed on her right knee. As a result of the alleged subject incident, she claimed that her ACL was re-injured, requiring surgery in January 2009 in which she underwent an ACL reconstruction.

NATURE OF INJURY:

Ms. Cook was taken from the Howard Johnson Express to the emergency room at Florida Hospital-Apopka. She was ultimately referred to Premier Orthopedic of Orlando where she underwent therapy with Dr. Gary Gallo, an orthopedist. An MRI was

performed and she was referred to Dr. Gordon Zuerndorfer for surgery.

Dr. Zuerndorfer performed an arthroscopic surgical repair of Ms. Cook's right anterior cruciate ligament (ACL) on January 8, 2009. Part of her patella tendon was taken out and used as a graft. A fine wire was used as a guide pin and the tip broke off into some of the soft tissue of the knee during surgery. It was left in and began irritating some nerves about two months later. A minor operation was performed to remove the pin. Ms. Cook developed a subsequent infection that was effectively treated with antibiotics.

Ms. Cook began physical therapy immediately after surgery. She claimed to still have intermittent pain, but rated her knee at 85% compared to pre-injury status. Because Ms. Cook had a previous ACL repair surgery two years prior, she was at a higher risk for developing arthritis. Her last appointment with Dr. Zuerndorfer was October 5, 2009. She also had a follow-up appointment scheduled with him for January 2010. However, she did not appear for that appointment, as she did not feel she needed to go.

PLAINTIFF'S EXPERT WITNESSES:

Gordon Howard Zuerndorfer, M.D.
Orthopaedic and Trauma Center
1831 N. Belcher Rd., Ste. G-2B
Clearwater, FL 33765

Dr. Zuerndorfer testified via videotape that he performed an arthroscopic surgical repair of Ms. Cook's right ACL on January 8, 2009. He described the procedure in great detail. He testified that following that procedure, he recommended to Ms. Cook that she immediately begin physical therapy. Ms. Cook subsequently returned to his office for a few follow-up visits.

Dr. Zuerndorfer testified about the restrictions he placed on Ms. Cook with regard to squatting, kneeling and all high impact activities. It was his opinion that Ms. Cook would likely need some form of physical therapy for the rest of her life. He estimated the cost of continual bi-monthly therapy would be \$2,400 per year.

Dan Denault
Orange County Fire & Rescue
Post Office Box 5879
Winter Park, FL 32793

Mr. Denault testified via his deposition that when he arrived to treat Ms. Cook, he knelt beside her. Upon doing so, his knees slid apart and he had to put a towel under them to gain traction. He did not know what type of substance was on the floor. He described the substance as being a "greasy" residue, but he testified that it was not visible.

DEFENDANT'S EXPERT WITNESSES:

None

CHECK APPROPRIATE SPACE: X Verdict

DATE OF VERDICT:

July 1, 2010

VERDICT:

Defense verdict

JUDGMENT:

For Defendant

DATE OF JUDGMENT:

July 14, 2010

DEFENDANT'S OFFER:

\$25,000

PLAINTIFF'S DEMAND:

\$350,000

ATTORNEY'S COMMENTS:

Other than Ms. Cook, no witnesses for Plaintiff were actually present at trial. The deposition of the paramedic, Mr. Denault,

was read at trial. Dr. Zuerndorfer's deposition was videotaped and played at trial.

After deliberating for one hour, the jury had a question. The jury asked if there was any documentation available, other than the paramedic's actual deposition, stating that the floor had been slippery. The judge instructed the jury that they were to reach a verdict based upon the evidence before them. About two minutes after receiving that instruction, the jury returned a defense verdict.

Submitted Juan A. Ruiz

Date: August 12, 2010

By:

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

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