

CASE INFORMATION SHEET
FLORIDA LEGAL PERIODICALS, INC.
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COUNTY AND COURT:

Osceola County Circuit Court

NAME OF CASE:

JENNIFER GABAI,

Plaintiff,

v.

WESTGATE VACATION VILLAS OWNERS ASSOCIATION, INC.,

Defendant.

CASE DOCKET NO.: 2013-CA-000749-ON **JUDGE:** John E. Jordan

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

Debi Chalik
Jason Chalik
Law Offices of Chalik & Chalik, P.A.
Plantation, Florida

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

Art C. Young
Rissman, Barrett, Hurt,
Donahue & McLain, P.A.
Orlando, Florida

Trevor G. Hawes
Cole, Scott & Kissane, P.A.
Jacksonville, Florida

AGE/SEX/OCCUPATION OF PLAINTIFF OR DECEDENT:

29 year old female sales associate at Ikea.

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

DATE, TIME AND PLACE OF ACCIDENT OR OCCURRENCE:

January 10, 2011 at 10:00 p.m. on stairs at Westgate Vacation Villas, Orlando, Florida.

CAUSE OF INJURY:

Fall while walking down stairs.

NATURE OF INJURY:

As a result of the accident she had reconstructive surgery on her ankle and later developed Reflex Sympathetic Dystrophy (RSD)/Complex Regional Pain Syndrome (CRPS). After a series of nerve blocks, a spinal cord stimulator was implanted.

Plaintiff's Life Care Plan projected over \$600,000 in future care and assumed replacement of the spinal cord stimulator battery 5-6 times over the course of her life expectancy of nearly 52 years.

PLAINTIFF'S EXPERT WITNESSES:

Dr. Robert Mills
Holy Cross Medical Group
Ft. Lauderdale
Treating orthopedic surgeon

Dr. Mills performed a modified Brostrom Tendon Reconstruction on May 18, 2011. He testified that the two tendons torn in Ms. Gabai's ankle were related to the subject accident.

Dr. Ira Fox
Anesthesia Pain Care Consultants
Tamarac, Florida
Pain management specialist

Dr. Fox implanted the Spinal Cord Stimulator on September 21, 2012. He testified Ms. Gabai had RSD/CRPS within a reasonable

degree of medical probability and that the stimulator was reasonable and necessary to the injury in the subject accident. Dr. Fox estimated that the Spinal Cord Stimulator would need to be replaced as many as 8 times during her lifetime.

Dr. Craig Lichtblau
Physical Medicine and Rehabilitation
North Palm Beach, Florida
Physiatrist/Life Care Planner

Dr. Lichtblau performed an evaluation of Ms. Gabai on February 15, 2014 and developed a Life Care Plan. He testified that plaintiff would need future care in the way of prescription medication, follow-up medical care with pain management specialists and physiatrists, as well as replacement of the Spinal Cord Stimulator.

Frederick Raffa, Ph.D.
Raffa Consulting Economists, Inc.
Orlando, Florida
Economist

Dr. Raffa estimated that plaintiff's future care, based on Dr. Lichtblau's Life Care Plan, would cost \$1.2 million reduced to present value of \$602,391.

Thomas G. Albers, NCARB, AIA, RCI
Sanford, Florida
Architect to address the stair defects

Mr. Albers testified the stairs were dangerous as a result of a slope on the bottom stair, the lack of uniformity and a variance between the stair tread/riser ratio.

DEFENDANT'S EXPERT WITNESSES:

Mark Edwards, Ph.D.
The Edwards Partnership, Inc.
Lake Mary, Florida
Human Factors

Dr. Edwards testified that based on his site inspection, the stairs were not dangerous even if there was a potential building code defect.

R. Allan Lougheed, AIA, CSI, CDT
Lougheed Resource Group, Inc.
Winter Garden, Florida
Construction, Building Codes, Architecture

Mr. Lougheed testified that the stairs met the 1985 Building Code and that the 1985 Life Safety Code did not contain any provision regarding slope.

Joseph D. Funk, D.P.M.
Orlando Orthopaedic Center
Orlando, Florida
Podiatry

Dr. Funk testified that the radiographic appearances of plaintiff's ankle before and after the subject accident were not significantly different. He did not believe the patient had RSD and opined that had she been wearing the prescribed ankle braces and orthotics, the accident could have been avoided or lessened.

Michael J. Creamer, D.O.
Rehabilitation Medical Group
Orlando, Florida
Physical Medicine & Rehabilitation, Pain Management

Dr. Creamer testified that a number of the items in Dr. Lichtblau's Life Care Plan were unnecessary and that there were no restrictions on plaintiff's activities of daily living. He further testified that plaintiff had preexisting foot and ankle conditions which impact her current condition and that her failure to wear prescribed ankle braces likely contributed to her fall.

CHECK APPROPRIATE SPACE: X Verdict

DATE OF VERDICT:

October 31, 2014

VERDICT:

Defense verdict

COMPARATIVE NEGLIGENCE:

N/A

JUDGMENT:

Final Judgment

DATE OF JUDGMENT:

November 10, 2014

DEFENDANT'S OFFER:

\$50,000 Proposal for Settlement

PLAINTIFF'S DEMAND:

At trial, plaintiff demanded \$920,000.

ATTORNEY'S COMMENTS:

The trial court instructed the jury that the 2009 Life Safety Code did not apply and as a matter of law there were no violations of the applicable 1985 Building Code/Life Safety Code. Plaintiff's initial theory related to inadequate lighting, which was abandoned at trial.

Submitted By: Art C. Young

Date: November 24, 2014

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

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