

COUNTY AND COURT:

Orange County Circuit Court

NAME OF CASE:

CESAR ESPINAL and LINDA SANTOS, his wife,

Plaintiffs,

v.

WESTGATE LAKES, LLC, a Florida Limited Liability Company d/b/a
WESTGATE LAKES RESORT & SPA,

Defendant.

CASE DOCKET NO.: CASE NO. 2015-CA-0001483

JUDGE: The Honorable Heather L. Higbee

PLAINTIFF'S ATTORNEYS/TRIAL COUNSEL:

Spencer Kuvin
Jorge Maxion
Law Office of Craig Goldenfarb, P.A.
West Palm Beach, Florida

DEFENDANT'S ATTORNEYS/TRIAL COUNSEL:

Art C. Young
Meredith M. Stephens
Rissman, Barrett, Hurt,
Donahue, McLain & Mangan, P.A.
Orlando, Florida

AGE/SEX/OCCUPATION OF PLAINTIFF OR DECEDENT:

On the date of the incident, Mr. Espinal was 41 years old. He lived in Palm Beach Gardens, Florida. He last worked as a maintenance worker for a food distributing company.

DATE, TIME AND PLACE OF ACCIDENT OR OCCURRENCE:

Mr. Espinal claimed that he fell at Westgate on May 14, 2013 at 8:00 p.m. on water that was leaking from the suite above. He testified that he fell backwards hitting his back, neck and head

after taking one step into the bathroom. Mr. Espinal alleged that water had been dripping down from the ceiling and walls of the bathroom. Mr. Espinal had cell phone videos of water leaking through the bathroom ceiling of the unit immediately above his villa.

CAUSE OF INJURY:

Mr. Espinal alleged that Westgate was negligent in failing to maintain a reasonably safe premises for its guests.

NATURE OF INJURY:

Mr. Espinal claimed he sustained a shoulder injury and cervical disc impingement at four levels as a result of the incident. He incurred \$45,000 in medical bills and asked for \$190,000 for future treatment.

PLAINTIFF'S EXPERT WITNESSES:

William Poznak, P.E.
Human factors/engineering

Mr. Poznak performed a site inspection and tested the floors. He was stricken as a witness prior to trial because he failed to comply with expert discovery deadlines.

Dr. Paul Maldonado
Pain management specialist

Dr. Maldonado testified that he administered cervical epidural steroid injections on three occasions after the incident.

Dr. Phillip Scuderi
Chiropractor

Dr. Scuderi testified that he treated Mr. Espinal for over four years and gave him a 6% impairment rating to the cervical spine as a result of the incident.

DEFENDANT'S EXPERT WITNESSES:

Donald J. Fournier, Jr., P.E.
Human factors/engineering

Dr. Fournier discussed Westgate's use of Nu-Safe, a product designed to decrease slip resistance on floor surfaces, even

when wet. Dr. Fournier testified that the floor surface met all ANSI standards on the date of the incident. He concluded that the floor in the unit was safe when wet.

Marc Kaye, M.D.
Radiologist

Dr. Kaye testified that there were no objective findings on the post incident MRIs of an acute injury to Mr. Espinal's cervical spine or shoulder related to the May 14, 2013 incident.

CHECK APPROPRIATE SPACE:

 X Defense verdict

DATE OF VERDICT:

May 14, 2018

VERDICT:

For Defendant

JUDGMENT:

For Defendant, Westgate Lakes, LLC, d/b/a Westgate Lakes Resort & Spa.

DATE OF JUDGMENT:

June 27, 2018

DEFENDANT'S OFFER:

Westgate filed a \$5,000 proposal for settlement to Plaintiff, Mr. Espinal, on September 22, 2015. Westgate filed a \$1 proposal for settlement to Plaintiff's wife, Ms. Santos, on September 22, 2015. Westgate is seeking to enforce its proposals for settlement.

PLAINTIFF'S DEMAND:

Mr. Espinal filed a \$99,000 proposal for settlement on December 8, 2016. Ms. Santos filed a \$15,000 proposal for settlement on August 12, 2016. Plaintiff requested \$320,000 in closing.

ATTORNEY'S COMMENTS:

The trial lasted four days. The jury was out for one hour, ten minutes before rendering a defense verdict.

On June 22, 2018, Mr. Espinal filed a motion for new trial. On June 25, 2018, the trial court entered an order denying the motion for new trial.

Date: July 25, 2018

Submitted By: Art C. Young
Meredith M. Stephens

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

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