

Subject: Daily Journal V&S
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RESULT DATE: Aug. 31, 1998

99-JV_133

Edward Langston v. Radisson Hotel Corporation (YC028326)

Hon. Loren Miller Jr.
L.A. Superior Torrance N

TOPIC: Personal Injury (Non-Vehicular)

SUB TOPIC: Premises Liability

FURTHER DESCRIPTION: Fall

VERDICT: \$12,000,000

ATTORNEY:

Plaintiff - Andrew J. Spielberger (Law Offices of Brian D. Witzer, West Hollywood); Brian D. Witzer (Law Offices of Brian D. Witzer, Beverly Hills).

Defendant - Edwin Howard, Walter Klein (Wilner, Klein & Siegel, Beverly Hills).

MEDICAL:

Plaintiff - Michael Fischer, M.D., radiologist, Los Angeles; H. Ronald Ronald Fisk, M.D., neurologist, Los Angeles; James Gernert, M.D., urologist, Los Angeles; Donald F. Nortman, M.D., internal medicine/nephrologist, Los Angeles; Gabriel V. Rubanenko, M.D., orthopedist, Los Angeles; Alan Schramm, Ph.D., psychologist, Irvine.

Defendant - Edwin C. Amos, III, M.D., neurologist, Santa Monica; Melvin H. Nutig, M.D., orthopedist, Los Angeles; Stephen Sacks, M.D., urologist, Los Angeles.

TECHNICAL:

Plaintiff - Alan Bassman, CPA, loss of earnings, Fort Washington, Pa.; Dewayne K. Beckner, toxicologist/criminalist, Los Angeles; Fred Del Marva, hotel industry, hotel construction and design, Glendale; Tim Delise, construction defect, Canyon County; Hrire Der Avanesian, biodynamic engineer, Pacific Palisades; Paul Henry, architect, Palm Desert; Jerry L. Hildreth, building code, construction code and standards, Tehachapi; William "Bill" Thomas, window design/manufacturer/engineer, Fair Oaks.

Defendant - Jerry P. Acker, hotel construction and design, Monrovia; Donald V.T. Bear, Ph.D., economist, San Diego; Robert Budd, Ph.D., toxicologist, biochemist, Los Angeles; Carl E. Englund, Ph.D., forensic human factors, Los Angeles; Paul S. Guthorn, construction model of window, Long Beach.

FACTS: On Jan. 1, 1996, plaintiff Edward Langston, a 26-year-old airline steward on layover, fell out of a fifth story hotel window on New Year's Eve. The window from which the plaintiff fell was 34 inches above the floor and had an unrestricted opening of 46 inches. A 31-inch ledge existed outside the window. During discovery, defendant denied it had construction standards for its hotel windows. The plaintiff obtained and produced evidence that defendant did have construction standards which stated that defendant's hotel windows should not open more than five inches. The defendant did, in fact have five to six inches window limiters on some of its other guest room windows. Despite defendant's denials, the plaintiff produced photos of people leaning out of the windows and testimonial evidence of defendant's knowledge that a person had previously fallen out of one of the windows. The defendant denied any such knowledge. The plaintiff brought this action against the defendant based on a premises liability theory of recovery.

INJURIES: The plaintiff sustained S-1 nerve trauma, severed S-2 nerve, sexual dysfunction, infertility, L-1 compression fracture, comminuted right calcaneus fracture, fractured pelvis, wrist fracture, broken ribs, arcflexic bowel and bladder, lung puncture, liver rupture and brain damage. The plaintiff had initial 21 days hospitalization, more than 10 surgeries and physical therapy.

SPECIALS IN EVIDENCE: MEDS: \$209,828 Future MEDS: \$3,012,034 LOE: \$64,269 Future LOE: \$2,191,904

JURY TRIAL: Length, 46 days; Poll, 9-3; Deliberation, 38 days

SETTLEMENT DISCUSSIONS: During discovery, the plaintiff issued three \$1 million offer of compromise per C.C.P. 0998 to each of the three defendants. During expert depositions and during trial, the plaintiff demanded settlement discussions at an "eight figure amount." In response to defendant's offer of \$10 million, the plaintiff asked for \$10.3 million. The defendant rejected this demand and withdrew all offers until the jury indicated it had reached a verdict at which time the defendant offered \$1 million and plaintiff rejected said offer. The defendant had offered \$70,000 to the plaintiff's original counsel during discovery. During expert depositions, the defendant offered \$300,000, then \$700,000, then \$1.2 million to plaintiff's new trial counsel. At the commencement of trial, the defendant offered \$2.3 million. After opening statement, the defendant offered \$5 million, then offered \$7 million. After the court indicated it might grant the plaintiff's motion to amend to allege punitive damages early in trial, the defendant offered \$10 million for 48 hours. The defendant withdrew all offers thereafter until the jury indicated it had reached a verdict at which time the defendant offered \$1 million.

OTHER INFORMATION: The verdict was reached approximately one year and nine months after the case was filed. Plaintiff was found to be 50 percent comparative negligent. \$6,294,246 of the verdict has been satisfied to date. The plaintiff has an appeal pending regarding the court's denial of the plaintiff's motion to amend to include a claim for punitive damages. The defendant have a cross-appeal pending.