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FLORIDA JURY VERDICT REPORTER (FJVR)

MARK A. BRIM vs. OAKWOOD PLAZA LIMITED PARTNERSHIP f/n/a SFA ATLANTIS ASSOCIATES, LIMITED PARTNERSHIP; HOME DEPOT U.S.A., INC. d/b/a THE HOME DEPOT

Docket No.: 07-02756 13; FJVR Reference No. 09:8-1

Verdict Date: **July 22, 2009**; Publication Date: **August 2009**

TOPIC: Premises Liability - Home Improvement Store - Patron Struck by Metal Bracing Embedded in Concrete

RESULT: \$ 7,000 for Plaintiff, against Defendant Home Depot. (verdict)

(\$ 2,000 -- past medical expenses; \$ 5,000 -- past pain and suffering).

STATE: Florida

COUNTY: Broward

JUDGE: Ana Gardiner

PLAINTIFF PROFILE: Age: 58

Sex: Male

Occupation: Interior Decorator/Builder

PLAINTIFF ATTORNEY: Pro Se

DEFENDANT ATTORNEY: Jack D. **Luks of Luks, Santaniello**, et al., Ft. Lauderdale

Cause Of Injury: Plaintiff was a patron at Defendant Home Depot's store in Defendant Oakwood Plaza, in Hollywood, on February 7, 2003. Plaintiff, wearing sandals, alleged that as he was walking to his vehicle, he severed his toe on a metal bracing embedded in the concrete. The bracing was to be used to support a fence. There were no warning signs at or near the scene. Defendants claimed that the condition was open and obvious and that Plaintiff should have seen and avoided it.

Nature Of Injury: Severe laceration of left big toe; the cut extended to the bone and damaged the nerves. Five clamps were required to close the wound. Plaintiff claimed severe pain in the toe and shooting pains up the leg, which caused him to fall on numerous occasions. Plaintiff testified that he suffered pain and discomfort twenty-four hours a day, seven days a week, and that he could no longer work or walk without a limp. Medical bills amounted to \$ 12,000.

DEFENDANT EXPERT WITNESSES: Mark A. Goldstein, M.D., Neurology, Atlantis

Editor's Note: This was a two-day trial. The jury was composed of four females and two males. The jury deliberated for one hour.

Defendant's Attorney's Comments: Defendant Home Depot's proposal of settlement

was \$ 10,000; Defendant Oakwood Plaza's proposal of settlement was \$ 2,000; Plaintiff's demand was \$ 245,000. Defendant Oakwood Plaza was dismissed following a Motion for Directed Verdict. Motion for Attorney's Fees and Costs against Plaintiff is pending. Fee judgment will exceed the verdict.