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## DEFENSE VERDICT



### Defense Verdict: Trip and Fall on Brick Paver Walkway (Pinellas County, FL)

On August 15, 2017, Tampa Partner, Joseph Kopacz, Esq. obtained a Defense Verdict in the matter of ***Brubaker v. Kopper Kitchen*** in Pinellas County, Florida in front of Judge Pamela Campbell. Plaintiff alleged Kopper Kitchen was negligent in the installation of the brick paver walkway at the entrance of the building. Plaintiff demanded \$350,000 before suit was filed. Plaintiff, a pastor claimed minimal lost wages. Plaintiff sustained significant injuries to her face including a broken nose which included additional cosmetic surgeries. Plaintiff also alleged a neck injury and the loss of her voice from the fall.

The fall was captured on video surveillance where Plaintiff was depicted carrying her granddaughter on her right hip and carrying a large purse on her left shoulder. The video depicts the Plaintiff tripping on the brick paver walkway and smashing her face on the metal gate at the entrance of Kopper Kitchen. This video was played to the jury several times in an attempt to garner sympathy. Plaintiff's husband, a police officer, testified at trial in uniform that there should have been a warning that the brick paver walkway was uneven.

The Defendant argued Plaintiff tripped on the brick paver walkway because she failed to recognize the transition from the black asphalt to the open and obvious brick paver walkway. Testimony was elicited there was no other falls on the brick paver walkway before or after the Plaintiff and no modifications were made to the brick paver walkway following Plaintiff's fall. Testimony was also elicited from one of the tenants on the Kopper Kitchen property that observed people using walkers, wheelchairs, and prosthetic legs safely ambulate the brick paver walkway before and after the Plaintiff's fall.

Plaintiff retained an Engineer to opine the brick paver walkway presented an unexpected tripping hazard because one of the brick pavers were raised over a 1/4 inch, but less than a 3/8 of inch. Plaintiff's Engineer claimed Kopper Kitchen violated the Life Safety Code, Building Code, and the ADA. Defendant hired a construction expert to opine the brick paver walkway was correctly installed and did not violate any codes. The jury deliberated for less than 10 minutes before returning a complete defense verdict.

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Luks, Santaniello defends businesses and insurers in Liability, most insurance lines and Workers' Compensation matters. The firm has a diversified team of 75 Insurance Defense Litigation attorneys across nine offices in Miami, Boca Raton, Fort Lauderdale, Fort Myers, Orlando, Tampa, Jacksonville, Tallahassee and Pensacola. Members have tried over 200 cases in Florida State and Federal Courts. We have a strong reputation in defending complicated general liability bodily injury claims involving over treatment, high medicals, letter of protection(s) and questionable surgeries.

Managing Partner Dan Santaniello and Central and North Partners, Anthony Petrillo (Tampa) and Paul Jones (Orlando) are all **Florida Bar Board Certified Civil Trial Experts**. Partners Christopher Burrows, Patrick Hinchey and Joseph Kopacz are all **Florida Bar Board Certified Construction Law Experts**. The firm has a full service Appellate team in South, Central and Northern Florida to assist with summary judgments, motions in limine, discovery objectives, trial strategy and post trial positions. The Daily Business Review selected Luks, Santaniello as finalists for the Most Effective Lawyers for its innovation in filing a Declaratory Judgment Action in a multiple Wrongful Death claim.

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