

LESLIE HUNT FERLITA vs. JANET HONNAKER; CAMELOT CARE CENTERS; and  
FLORIDA DEPARTMENT OF CHILDREN & FAMILY SERVICES

Docket No.: 02-CA-12100; FJVR Reference No. 08:6-25

Verdict Date: **February** 26, 2008; Publication Date: **June** 2008

**TOPIC:** Defense Verdicts - Falldown - Municipalities & Government Entities - Police & Sheriffs - Private Foster Home

**RESULT:** For the Defendants. (verdict)

**STATE:** Florida

**COUNTY:** Hillsborough

**JUDGE:** James M. Barton, II

**PLAINTIFF PROFILE:** Age: 43

Sex: Female

Occupation: Hillsborough County Sheriff's Deputy

**PLAINTIFF ATTORNEY:** Anthony D. Martino and Anthony T. Martino of Clark & Martino, Tampa

**DEFENDANT ATTORNEY:** Anthony J. Petrillo and Matthew L. Evans of **Luks, Santaniello**, et al., Tampa

**CAUSE OF INJURY:** On October 26, 2000, Plaintiff responded to a 911 call placed by Defendant Honnaker who operated a therapeutic foster home within her residence. A child residing on the premises threw gravy on the floor during an argument with Honnaker. The child then locked herself in a room and allegedly threatened suicide. Honnaker called 911 and requested assistance because she had no key to open her own bedroom door. As she waited for the police to arrive, Honnaker claimed to have begun cleaning the gravy off the floor in the entryway due to her admitted concern that the substance posed a risk to the deputies. Plaintiff and another Sheriff's Deputy, upon being dispatched, proceeded to the premises and arrived forty-five minutes later at which time Honnaker was standing outside. Upon the arrival of the deputies, Honnaker informed them that the child had locked herself in the room and that the child had thrown something on the floor within the residence. The deputies entered the home and were lead by Honnaker to the room in which the child was locked. Honnaker then left the deputies alone in that area of the home. Since the door to the room was locked and Honnaker did not have a key, the deputies determined that they would need a tool to unlock the door. Plaintiff and her partner proceeded to the kitchen to retrieve an item to use in unlocking the door and upon entering the kitchen, Plaintiff slipped on the gravy remaining on the floor for over forty-five minutes and fell on her back. Plaintiff's partner, who had been walking behind her, slipped as well but was able to catch himself before striking the floor and was not injured. Plaintiff was unable to rise and remained on the floor until taken from the house by paramedics.

NATURE OF INJURY: Injuries to lumbar spine, including herniations at L3-L4, L4-L5, and L5-S1 which required a discectomy and fusion; medical expenses totaling approximately \$ 350,000. Plaintiff wore a back brace and claimed that the surgeries had not resolved her lumbar issues.

EDITOR'S NOTE: This was a two day trial. The jury was composed of four males and two females. The jury deliberated for over three hours. The case was bifurcated and was tried on liability only. Defendants offered \$ 10,000; Plaintiff demanded \$ 1,000,000.

PLAINTIFF'S ATTORNEY'S COMMENTS: Anthony Martino: Numerous legal issues arose during trial and serve as the basis for the pending Motion for New Trial and for the appeal, including the trial court rulings excluding evidence of Defendant Camelot Care Centers' policies and procedures, denial of a jury instruction on the rebuttable presumption of negligence established in *Owens vs. Publix Super Markets, Inc.*, 802 So.2d 315, 331 (Fla. 2001), and exclusion of Plaintiff's argument and impeachment that the dangerous condition was caused by Honnaker's lack of training or prospective intent to have the child removed from the premises. The lawsuit was filed in 2002 and Plaintiff's counsel entered an appearance in the already pending action in 2007 for purposes of serving as trial counsel. Department of Children and Family Services was voluntarily dismissed from the lawsuit by Plaintiff prior to trial.