

ADNERYS HERNANDEZ vs. EXECUTIVE & PROFESSIONAL MANAGEMENT, INC.

Docket No.: 00-32762-CA 23; FJVR Reference No. 04:03-55

Verdict Date: **January** 9, 2004; Publication Date: **March** 2004

**TOPIC:** Falldown - Building - Wet Paint in Stairwell

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

**STATE:** Florida

**COUNTY:** Miami-Dade

**JUDGE:** Fredericka Smith

**PLAINTIFF PROFILE:** Age: 36  
Sex: Female  
Occupation: Paralegal

**PLAINTIFF ATTORNEY:** Richard E. Doherty, Miami

**DEFENDANT ATTORNEY:** Daniel J. **Santaniello** and Rusty A. Perez of **Luks, Santaniello**, et al., Miami

**CAUSE OF INJURY:** On February 18, 2000, Plaintiff contended that she was walking down the stairwell of the building where she worked in Miami when she slipped and fell down ten steps. Defendant was painting the steps and Plaintiff claimed that Defendant failed to put up a sign or give warning of the condition. The case was bifurcated and the first jury determined liability. This trial was on causation and damages.

**NATURE OF INJURY:** Serious back injury and herniated disc at L5-S1. Plaintiff underwent years of therapy and a laminectomy and surgery to her lower back. Plaintiff claimed that she will need future surgery to her back including fusion. Plaintiff also claimed permanent urological injuries due to the surgery and claimed future surgery was necessary to prevent incontinence. Dr. Morgenstern testified that Plaintiff would incur future medical expenses and wage losses in excess of \$ 250,000. Dr. Lustgarten, who performed the original surgery after the incident, testified that Plaintiff required future fusion to the back. Dr. Stewart testified that although Plaintiff did sustain a herniated disc approximately two to four years before this incident, which she treated with him, the MRIs taken after the subject accident showed a different herniation and was much worse than the one he had treated prior to this incident. Defendant argued that all of Plaintiff's injuries were exaggerated or pre-existing.

**PLAINTIFF EXPERT WITNESSES:** James Stewart, M.D., Neurosurgery, Miami  
Robert Kagan, M.D., Radiology, Ft. Lauderdale  
Michael Morgenstern, Vocational Rehabilitation, Miami  
Gary Lustgarten, M.D., Neurosurgery, Miami

Marvin Bondhus, M.D., Urology, Miami

**DEFENDANT EXPERT WITNESSES:** Paul Koenigsberg, M.D., Radiology, Miami  
Sergio Gonzalez-Aries, M.D., Neurosurgery, Miami  
David Crystal, Vocational Rehabilitation, Boca Raton  
Leonidas Dowlen, M.D., Urology, Coral Gables

DEFENDANT'S ATTORNEY'S COMMENTS: The jury found that this incident was not a legal cause of loss, injury or damage to Plaintiff. Plaintiff demanded \$ 700,000. Plaintiff asked the jury for \$ 940,000. Defendant filed a Motion to Tax Costs and Attorney's Fees based upon a previously filed Proposal for Settlement.