

MARION KELLUM vs. THE AFFIRMED CORP., d/b/a COURTYARD BY MARRIOTT

Docket No.: 03-001916 (05); FJVR Reference No. 04:03-12

Verdict Date: **October** 9, 2003; Publication Date: **March** 2004

TOPIC: Negligent Security - Hotel Parking Lot - Patron Attacked

RESULT: For the Defendant. (verdict)

STATE: Florida

COUNTY: Broward

JUDGE: Jeffrey Streitfeld

PLAINTIFF PROFILE: Age: 77
Sex: Female
Occupation: Retired

PLAINTIFF ATTORNEY: Robert A. Scalione of Tripp, Scott, et al., Ft. Lauderdale

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

CAUSE OF INJURY: On March 1, 2002, Plaintiff was robbed in Defendant's parking lot on N. Federal Highway in Ft. Lauderdale. Plaintiff alleged that Defendant failed to provide her with reasonable and adequate security on said evening. After returning from dinner at a nearby restaurant with her sister, Plaintiff parked her vehicle near the rear entrance to the hotel in a handicapped parking space. After exiting her vehicle, she was accosted by an unknown assailant who grabbed her purse and dragged her along the parking lot for approximately ten feet until he was able to obtain her purse. He left the premises in a vehicle. Plaintiff established that Defendant only had two security employees for the parking lot and five story hotel structure; however, neither security employees were working at the time of the incident. The criminal history for the three years before the incident included numerous felonies and an excess of one-hundred police calls. Defendant took the position that the incident was not reasonably foreseeable, the area of the incident was well-illuminated by artificial lighting, and that the incident was unpreventable.

NATURE OF INJURY: Pain and discomfort to left shoulder, hand, and both knees. Plaintiff testified that she experienced weakness in her left arm as a result of the injury and claimed psychological injuries including paranoia, fear of being alone, continuous nightmares, and an inability to live a normal life as a result of her psychological trauma. Plaintiff further provided evidence that as a result of her fears, she had to spend \$ 10,000 for security measures at her home in Oregon.

DEFENDANT EXPERT WITNESSES: Stephen Wender, M.D., Orthopedic Surgery, Ft. Lauderdale
George Slattery, Security, Miami (depo)

EDITOR'S NOTE: The jury found that there was no negligence on the part of Defendant which was a legal cause of damage to Plaintiff. Plaintiff has no post-trial motions pending.