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Slips, Trips & Falls

Woman who fell exiting ferry sued DOT for debris on stairs

Verdict: Defense

Case Type: Slip and Fall, Premises Liability - Slip and Fall, Premises Liability - Stairs or Stairway

Case: Pamela Boone v. Texas Department of Transportation, No. 02CV0399

Venue: Galveston County District Court, 122nd, TX

Judge: John Ellisor

Date: 06-08-2005

PLAINTIFF(S)

Attorney:

- Lawrence M. "Larry" Tylka; Tylka Law Center; Galveston, TX, for Pamela Boone

Expert:

- Andre Albu M.D.; Anesthesiology; Houston, TX called by: Lawrence Tylka
- Morris Berk M.D.; Radiology; Houston, TX called by: Lawrence Tylka
[VIEW EXPERT'S CASES](#)
- Peter McRee D.C.; Medical Malpractice; Houston, TX called by: Lawrence Tylka
- Dennis Teal D.C.; Chiropractic; Livingston, TX called by: Lawrence Tylka
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- Medical Imaging; Medical/Health; Pasadena, TX called by: Lawrence Tylka
- Randall Halbert D.C.; Chiropractic; Texas City, TX called by: Lawrence Tylka
- Paul Marullo D.C.; Chiropractic; Texas City, TX called by: Lawrence Tylka

DEFENDANT(S)

Attorney:

- Brian C. Lopez; Engvall & Hlavinka, LLP; Houston, TX, for Texas Department of Transportation

Expert: None

Insurer:

- Employers General Insurance Group for Texas Department of Transportation

Facts:

On April 9, 2000, plaintiff Pamela Boone, 40, a business owner in the automotive industry, fell on the steps of the Port Bolivar Ferry at Bolivar Peninsula near Galveston while attempting to exit the vessel. She was accompanied by her daughter and husband at the time, and claimed that an errant 16 oz. plastic Dr. Pepper bottle caused her to lose her balance and fall.

Boone sued the Texas Department of Transportation, the owner and operator of the ferry, under a premises liability theory. She claimed that the presence of the bottle and the poor condition of the stairs both were dangerous conditions. The captain of the ferry admitted during trial that the steps were defective.

The defense argued that it was not liable for the fall because its employees did not have notice of the Dr. Pepper bottle before she fell. Further, the defense disparaged Boone's claim that the condition of the stairs had anything to do with her fall, noting that, at her deposition, she testified only that the bottle caused the accident and that it wasn't until trial that she mentioned the condition of the stairs.

The defense also argued that Boone changed her story in other ways, noting that in her deposition, she testified that her daughter and husband followed her down the steps but at trial, she claimed that she followed them down the steps.

Injury:

Boone claimed that she strained her lower back and sustained soft tissue injuries that caused chronic pain. She underwent chiropractic treatment and received epidural lumbar steroid injections to alleviate her pain. She alleged that standing or sitting for long periods of time caused her pain and that she was unable to perform certain activities she once enjoyed, like riding a four-wheeler.

She incurred about \$35,000 in medical specials, and she sought an unspecified amount in damages for past and future pain and suffering and mental anguish. Her attorney asked the jury for \$125,000.

Verdict Information The jury rendered a defense verdict, finding that the employees of the DOT were not aware of any dangerous conditions on the ferry at the time of the accident. Defense counsel Brian C. Lopez noted that the jury's lone dissenter wanted to award Boone with the amount of her medical expenses.

Editor's Comments Plaintiff's counsel Larry Tylka did not respond to a phone call or faxed draft of this report.