

2006 WL 4061524 (N.Y.Sup.)
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Supreme Court, Second Judicial District, Kings County, New York

Plaintiff v. City of NY & NYCH & H Corp.

No. 47331/03

DATE OF VERDICT/SETTLEMENT: December 12, 2006

TOPIC: PREMISES LIABILITY - NEGLIGENT REPAIR AND/OR MAINTENANCE - PREMISES LIABILITY
- DANGEROUS CONDITION

Hospital Ignored Leaky Sink, Nurse Claimed

SUMMARY:

RESULT: Verdict-Plaintiff

The jury found that the defendants were liable for the accident. It determined that Plaintiff's damages totaled \$511,125.

EXPERT WITNESSES:

Plaintiff: Dr. [Eli Bryk](#); Orthopedics; Brooklyn, NY

Defendant: [Alan R. Miller](#), M.D.; Orthopedics; Astoria, NY

ATTORNEYS:

Plaintiff: [Adam M. Orlow](#); Orlow, Orlow & Orlow, P.C.; Flushing, NY (Plaintiff)

Defendant: Andrew W. Prior; Assistant Corporation Counsel for [Michael A. Cardozo](#), Corporation Counsel; Brooklyn, NY (City of New York, New York City Health and Hospitals Corp.)

JUDGE: [Leon A. Ruchelsman](#)

RANGE AMOUNT: \$500,000-999,999

STATE: New York

COUNTY: Kings County

INJURIES: Plaintiff sustained tears of her left knee's medial meniscus and anterior cruciate ligament. Two weeks after the accident, she underwent a subtotal medial meniscectomy and reconstruction of her damaged anterior cruciate ligament. The latter procedure included the application of a graft that was harvested from the knee's patella. Plaintiff also underwent about five months of physical therapy.

Facts:

On July 28, 2003, Plaintiff, 28, a nurse, was engaged in the normal course of her duties at Harlem Hospital Center, in Manhattan. As part of her duties, she first checked on the patients in Room 138 at around midnight. At that time, she noticed a leak from the sink and saw water on the floor of the room. Plaintiff put down towels and sheets, in an attempt to soak up the water. She then continued to treat patients.

At about 2 a.m., Plaintiff went back to Room 138. She took a few steps into the room and slipped in water that was on the floor. Plaintiff didn't fall to the ground, but in an attempt to prevent a fall, she twisted her knee.

Plaintiff sued the hospital's owners and operators, the city of New York and the New York City Health and Hospitals Corp. She alleged that the defendants were negligent in their maintenance of the hospital and that their negligence created a dangerous condition.

Plaintiff claimed that the leak had been there for more than a week and that she and others had made numerous complaints about it. She contended that the defendants knew about the sink problem, but that they failed to correct it.

During discovery, defense counsel produced a work order that showed that a nurse supervisor complained to maintenance about a 'sink stoppage' in Room 138 six days before Plaintiff's accident. The defendants claimed that they did not have notice of the leak condition and that the work order only said 'sink stoppage,' which did not put them on notice of a 'leak.' Defense counsel also contended that Plaintiff was comparatively negligent for the accident because she had seen the leak two hours earlier and failed to take proper care when she returned to the room.

Plaintiff was able to return to work after a few months, but she claimed that she occasionally experiences buckling of her left knee. Plaintiff's treating physician testified that Plaintiff might experience residual arthritis of her left knee.

Plaintiff sought recovery of \$11,125 for her past medical expenses, \$300,000 for her past pain and suffering, and \$495,000 for her future pain and suffering.

Defense counsel contended that Plaintiff's surgeries were successful and that Plaintiff does not suffer any residual disabilities.

The defense's expert orthopedist opined that Plaintiff's injuries will not produce residual arthritis.

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