

2005 WL 1004925 (N.Y.Sup.)
For Dockets See [0006406/2002](#)

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Supreme Court, Eleventh Judicial District, Queens County, New York

PLAINTIFF V. SAUNDERS APARTMENTS, INC AND VISION ENTERPRISES MANAGEMENT CORP., AND
DISTRIBUTION SYSTEMS OF AMERICA, INC.

No. 6406/02

DATE OF VERDICT/SETTLEMENT: February 18, 2005

TOPIC: PREMISES LIABILITY - NEGLIGENT REPAIR AND/OR MAINTENANCE - PREMISES LIABILITY
- DANGEROUS CONDITION - PREMISES LIABILITY - APARTMENT BUILDING - PREMISES LIABILITY
- TENANT'S INJURY TENANT SLIPPED ON ADVERTISING CIRCULAR IN BUILDING'S VESTIBULE

SUMMARY:

AWARD: \$65,000

RESULT: Settlement

The jury rendered a mixed verdict. It found that Saunders Apartments was 100% liable for the accident and that Distribution Systems and Vision Enterprises Management were not liable. Prior to the scheduled start of the damages trial, Plaintiff and Saunders Apartments agreed to a \$65,000 settlement.

EXPERT WITNESSES:

Plaintiff: [Richard Gochman](#), D.D.S.; Dentistry/Odontology; Flushing, NY

Defendant: [Andrea Schreiber](#), D.D.S.; Dentistry/Odontology; New York, NY

ATTORNEYS:

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

Defendant: John G. Chaconas; Kaplan and Winkler; New York, NY [Vincent F. Gerbino](#);

Bruno, Gerbino and Soriano; Melville, NY

JUDGE: [Phyllis Orlikoff Flug](#)

RANGE AMOUNT: \$50,000-99,999

STATE: New York

COUNTY: Queens County

INJURIES: The trial was bifurcated, so damages were not before the court. However, Plaintiff claimed that his teeth smashed together and were damaged. He had recently undergone significant dental work at a cost of \$11,000. He claimed that the accident ruined this work. He could not afford to replace the bridgework, so he has had temporary dentures since the accident. He claimed that this led to further deterioration of his underlying teeth. By the time of the trial, he needed multiple implants to repair his dentition.

SUMMARY:

Insurance Carrier: Tower Group Cos. for Saunders Apartments

FACTS:

On March 24, 2000, plaintiff Plaintiff, 63, entered his apartment building, which was located at 63-109 Saunders St., in the Rego Park section of Queens. Plaintiff had been shopping, so he was carrying two large bags of merchandise. As such, he used his shoulder to push open the lobby door. After entering the lobby's vestibule, he slipped on an advertising circular that had been delivered by Distribution Systems of America Inc. He fell and sustained serious dental injuries.

Plaintiff sued Distribution Systems; his apartment building's owner, Saunders Apartments Inc.; and the building's managing agent, Vision Enterprises Management Corp. He alleged that Distribution Systems created a dangerous condition and that Saunders Apartments was negligent in its failure to alleviate the danger.

Plaintiff claimed that he observed approximately 100 circulars in the vestibule when he exited the building approximately 12 hours prior to his fall. He contended that Distribution Systems had delivered circulars twice a week for years, that the circulars created a dangerous condition, and that Saunders Apartments was aware of the danger.

Plaintiff conceded that he never complained about the circulars, but he presented a tenant who testified that she complained to the superintendent and the porters.

The defendants claimed that Plaintiff was at fault because he was not watching his steps--despite his knowledge that the circulars may have been present.

The superintendent conceded that he knew about the circular deliveries, but he contended that he cleared the vestibule twice a day. He also testified that, whenever he saw circulars in the vestibule, he would throw them away.

Distribution Systems claimed that it was not liable because there was a 12-hour period between the circulars' delivery and the accident. It also claimed that the delivery was made by an independent contractor, for whom it was not responsible.

Plaintiff's treating dentist determined that it would cost \$30,000 to return Plaintiff's teeth to their pre-accident condition.

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