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Jury Finds Shopper Failed to Prove Water Leak Led to Slip

Bowman v. Giant Eagle

The Legal Intelligencer

July 6, 2017

Date of Verdict:

June 26.

Court and Case No.:

C.P. Allegheny No. GD-14-016640.

Judge:

Michael A. DellaVecchia.

Type of Action:

Premises liability; personal injury.

Injuries:

Leg fracture, knee dislocation.

Plaintiffs Counsel:

Regina M. McIlvaine of Lowenthal & Abrams, Philadelphia.

Defense Counsel:

James F. Rosenberg of Marcus & Shapira, Pittsburgh.

Comment:

On Oct. 27, 2012, plaintiff Jesse Bowman, 36, a financial adviser, was at a Giant Eagle grocery store in Pittsburgh. He claimed that, while walking to the men's room, he slipped

near the door. He attributed his fall to an accumulation of liquid on the floor near a water fountain by the men's room entrance. He claimed right-leg fractures.

Bowman sued Giant Eagle, alleging that it was negligent for allowing a dangerous condition to exist.

Bowman's counsel argued that, although a store employee had passed the area and was in the men's room when the accident happened, the employee did not clean the water off the floor or provide a warning to customers. Counsel asserted that the water fountain had been leaking, and store personnel failed to repair it.

Giant Eagle contended that there was no evidence to support the claim that the water fountain had been leaking. The store cited an incident report by a store manager, who found no water on the floor and no leaking from the fountain.

Bowman was taken by ambulance to an emergency room, where he was diagnosed with comminuted displaced fractures of the right proximal fibula and the right tibia shaft, and with a displaced right patella.

He was immobilized and transferred to another hospital. On Oct. 29, he underwent open reduction and internal fixation surgery, in which an intramedullary cross-locked tibial nail and screws were implanted. Two days later, Bowman was discharged, and he remained non-weight-bearing in the ensuing weeks.

On Dec. 6, he followed up with his surgeon, was fitted with a walking boot, and was permitted to be weight-bearing. He treated with physical therapy for a few months.

Throughout 2013, Bowman consulted with his surgeon. In November, he complained of a "popping" sensation over his right ankle. On Nov. 27, he underwent surgical removal of the cross-locking screws (the nail remained).

No further treatment was rendered, and Bowman sought to recover a medical lien of approximately \$30,000.

Bowman's orthopedic surgeon causally related his injuries and surgery to the accident. According to the physician, Bowman may require removal of the entire intramedullary nail and may need intermittent physical therapy (no future medical costs were presented).

Bowman testified that he continues to experience pain and limitations in his leg. He is unable to walk for long distances or stand for long periods. According to Bowman, he was unable to get on the floor to play with his recently born child. He sought damages for past and future pain and suffering.

Bowman's wife discussed how she had to take on more responsibilities around their home during Bowman's recovery. She sought damages for past and future pain and suffering.

Giant Eagle did not dispute Bowman's injuries and treatment.

The jury found that Giant Eagle was negligent, but its negligence was not a factual cause of any harm to Bowman.

This report is based on information that was provided by defense counsel. Plaintiffs counsel did not respond to the reporter's phone calls.

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