Plaintiff: Store knew customers spilled water

Type: Decision-Plaintiff

Amount: $3,105,000

State: California

Venue: San Joaquin County

Court: Superior Court of San Joaquin County, San Joaquin, CA

Injury Type(s):
- *leg*
- *knee* - meniscus, tear
- *other* - thigh; hamstring; avulsion (non-fracture)
- *neurological* - sciatica; nerve damage/neuropathy; nerve damage, sciatic nerve

Case Type:
- *Slips, Trips & Falls* - Slip and Fall
- *Premises Liability* - Dangerous Condition

Case Name: Sylvia Moctezuma v. Walmart, Inc., No. STK-CV-UPI-2020-6323

Date: June 08, 2023

Plaintiff(s):
- Sylvia Moctezuma, (Female, 55 Years)

Plaintiff Attorney(s):
- Terrance J. Thompson; Law Offices of Terrance J. Thompson; Manteca CA for Sylvia Moctezuma

Plaintiff Expert (s):
- William E.J. Martin A.I.A.; Architecture; Seattle, WA called by: Terrance J. Thompson
- Dr. Benjamin T. Busfield M.D.; Orthopedic Surgery; , called by: Terrance J. Thompson

Defendant(s):
- Walmart, Inc.

Defense Attorney(s):

- John D. Broghammer; Sims, Lawrence & Broghammer; Roseville, CA for Walmart, Inc.
- Mark T. Lobre; Sims, Lawrence & Broghammer; Roseville, CA for Walmart, Inc.

Defendant Expert(s):

- Dr. Michael A. Cerruti M.D.; Orthopedic Surgery; Sacramento, CA called by: for John D. Broghammer, Mark T. Lobre

Facts:

On Aug. 12, 2018, plaintiff Sylvia Moctezuma, 55, unemployed, walked into a Walmart in Tracy. She was passing the self-service water jug dispenser used by customers in the front of the store when she slipped and fell. Her right leg slipped forward, while her left leg remained behind her torso, causing her to fall into a split, injuring her right leg.

Moctezuma sued Walmart, Inc., alleging claims of premises liability, including dangerous conditions and failure to repair/maintain.

Moctezuma claimed a trail of water on the floor was what caused her slip. The accident was recorded by store cameras, which also showed how the water got onto the floor. Specifically, prior to the accident, the water spill was caused by a customer who used the water dispenser in the front of the store to fill up his jugs and after filling his jugs and walking with them through the store, water spilled out of the jugs, which created a trail of water from the self-service water jug dispenser to the checkout stands.

The plaintiff’s counsel argued that Walmart knew that its customers constantly spilled water while using the dispenser. At trial, two of Walmart’s employees testified that customers are frequently spilling their water when using the dispenser. Plaintiff’s counsel contended that the jugs are heavy and customers have a difficult time handling the jug when full.

As such, plaintiff’s counsel argued that the spilled water constituted a dangerous condition that Walmart failed to repair or maintain, that Walmart had actual and constructive knowledge of. Despite this, plaintiff’s counsel further argued, Walmart was negligent for not making a policy nor routine of regularly inspecting the area around the water dispenser.

The plaintiff’s counsel added that the flooring around the water dispenser was white and extremely slippery when wet, and Walmart could reasonably anticipate that hazardous conditions would regularly arise around the self-service water jug dispenser.

The defense counsel for Walmart, Inc. stated Walmart would not be contesting liability, nor would the company be stipulating to liability.

Injury: Moctezuma was taken to a hospital after the fall. She suffered a complete right hamstring avulsion injury. The tendons and muscles retracted approximately 8.4 cm and balled up in her right hamstring region. The sciatic nerve and muscular branches of the sciatic nerve pass through the area where the avulsion injury occurred, causing her to experience sciatic nerve pain.

Moctezuma claimed that due to weakness and instability in her right leg, she fell in March 2019 on her right knee and suffered a right meniscus tear, which she had surgery to repair. Plaintiff's expert in orthopedic surgery testified that an allograft surgery could be beneficial to Moctezuma, especially as she ages. The surgery involves making a 16-inch incision along her right hamstring, grabbing the balled up tendon, adding the allograph and anchoring the allograph to the hip. The expert also testified Moctezuma would need future surgeries on her right knee.

It was undisputed that Moctezuma will have to walk with a limp for the rest of her life due to her condition, and that she would have difficulties walking on uneven surfaces, walking up and down stairs and suffer from pain, swelling and discomfort. She sought recovery only for her future medical costs and for the possible future surgery.

Walmart contended Moctezuma’s subsequent fall in March 2019 was not related to the avulsion injury, nor was her sciatic pain.

Result: Judge George Abdallah Jr. found that since Walmart was aware of the constant spills, it was negligent in the placement, operation and maintenance of its water vending machine, and awarded Moctezuma $3,105,000.

Sylvia Moctezuma

$ 105,000 Future Medical Cost

$ 3,000,000 General Damages

$ 3,105,000 Plaintiff's Total Award

Trial Information:

Judge: George J. Abdallah Jr.

Trial Length:	0
Trial Deliberations:	0
Editor's Comment:	This report is based on information that was provided by plaintiff's counsel. Defense counsel did not respond to the reporter's phone calls.
Writer	Priya Idiculla

Plaintiff claimed ongoing knee pain after fall in store

Type: Mediated Settlement

Amount: $1,250,000

State: California

Venue: Fresno County

Court: Superior Court of Fresno County, Fresno, CA

Injury Type(s):
- *leg*
- *knee* - patella; medial meniscus, tear
- *other* - dysplasia; physical therapy; decreased range of motion
- *neurological* - reflex sympathetic dystrophy; complex regional pain syndrome
- *surgeries/treatment* - arthroscopy; knee surgery; meniscectomy

Case Type:
- *Premises Liability* - Store; Dangerous Condition; Negligent Repair and/or Maintenance
- *Slips, Trips & Falls* - Trip and Fall

Case Name: Rosario Soto v. Garcia's Supermarket; and Does 1 to 25, inclusive, No. 19CECG01669

Date: May 19, 2021

Plaintiff(s):
- Rosario Soto, (Female, 48 Years)

Plaintiff Attorney(s):
- Warren R. Paboojian; Baradat & Paboojian, Inc.; Fresno CA for Rosario Soto
- Nolan C. Kane; Baradat & Paboojian, Inc.; Fresno CA for Rosario Soto

Plaintiff Expert (s):
- Kurt V. Miller M.D.; Neurology; Fresno, CA called by: Warren R. Paboojian, Nolan C. Kane
- James Flynn P.E.; Safety; Fresno, CA called by: Warren R. Paboojian, Nolan C. Kane
- Robert G. Salazar M.D.; Pain Management; Fresno, CA called by: Warren R. Paboojian, Nolan C. Kane
- Thomas J. O'Laughlin M.D.; Physical Medicine; Fresno, CA called by: Warren R. Paboojian, Nolan C. Kane

Defendant(s):

- Bertha Flores
- Guadalupe Flores

Defense Attorney(s):

- R. Marc Stamper; Law Office of Penny S. Moore; Fresno, CA for Guadalupe Flores, Bertha Flores

Defendant Expert(s):

- Michael A. Cerruti M.D.; Orthopedic Surgery; Sacramento, CA called by: for R. Marc Stamper

Insurers:

- Nationwide Mutual Insurance Co.

Facts:

On Jan. 4, 2019, plaintiff Rosario Soto, a 48-year-old unemployed woman, fell while she was shopping in the produce section of Garcia's Supermarket, in Kerman. Soto sustained injuries to her left knee.

Soto sued the supermarket's operators, Guadalupe Flores and Bertha Flores. Soto alleged that the defendants failed to properly maintain the premises, creating a dangerous condition.

Soto claimed she tripped on the corner of a square pallet that was sticking out from underneath an octagonal produce bin.

Defense counsel contended that the pallet/bin combination was open and obvious and that it was clearly visible to customers.

Injury: Soto sustained a torn medial meniscus in her left knee, resulting in trochlea dysplasia (when a knee's trochlea becomes flat or dome-shaped, causing the patella to lose stability and track to the outside of the knee as the knee bends) and patellar maltracking (also known as patellar tracking disorder, which is when the movement of the kneecap is not aligned).

Soto was taken to a hospital, where she was treated and released. She later underwent a partial medial meniscectomy, which was performed arthroscopically, in June 2019. Soto then underwent injections and physical therapy for seven months, which was unsuccessful.

Soto claimed that the pain in her left knee and leg remains severe and that she was ultimately diagnosed with complex regional pain syndrome, also known as reflex sympathetic dystrophy or causalgia, a chronic pain condition. She also claimed that she has difficulty walking and requires the use of a cane.

Soto claimed that she will require future medical care, including a lumbar sympathetic injection at L2 and L3, to see if it will provide any relief before moving forward with more invasive procedures. She also claimed that future treatment could include Ketamine infusions, which would consist of one infusion a week for four weeks, and a surgically-implanted spinal cord stimulation delivery system, which would be performed on an outpatient basis. She alleged that if the prior treatments are unsuccessful, she would be a candidate for a surgical implantation of an intrathecal delivery system for the purpose of providing ziconotide intrathecally onto the spinal cord receptors.

Soto sought recovery of $8,476.33 in past Howell medical costs and at least $100,000 in estimated future medical costs. She also sought recovery of non-economic damages for her past and future pain and suffering.

Result: The parties agreed to a $1.25 million settlement, which was finalized via the guidance of mediator James Dilling.

Trial Information:

Judge: James A. Dilling

Trial Length: 0

Trial Deliberations:	0
Editor's Comment:	This report is based on information that was provided by plaintiff's counsel. Defense counsel did not respond to the reporter's phone calls.
Writer	Priya Idiculla

Unlikely fall caused vocal change, defense argued

Type: Verdict-Plaintiff

Amount: $25,683

State: California

Venue: Sacramento County

Court: Superior Court of Sacramento County, Sacramento, CA

Injury Type(s):
- *back*
- *neck*
- *sensory/speech* - vocal cord, damage

Case Type:
- *Premises Liability* - Restaurant; Dangerous Condition; Negligent Repair and/or Maintenance
- *Slips, Trips & Falls* - Trip and Fall

Case Name: Gillian Van Muyden v. State of California, O'Deli Cafe and Does 1-50, No. 34-2016-00195129

Date: May 16, 2018

Plaintiff(s):
- Gillian Van Muyden (Female, 59 Years)

Plaintiff Attorney(s):
- Martin J. Kanarek; The Dominguez Firm; Los Angeles CA for Gillian Van Muyden

Plaintiff Expert (s):
- Amy Chapman M.A.; Voice & Speech Pathology; Los Angeles, CA called by: Martin J. Kanarek
- Andrew G. Berman M.D.; Otolaryngology; Beverly Hills, CA called by: Martin J. Kanarek
- Corinne Dekker; Voice Disorders; Los Angeles, CA called by: Martin J. Kanarek
- Melanie Gregorian D.C.; Chiropractic; Glendale, CA called by: Martin J. Kanarek

Defendant(s):
- O'Deli Cafe
- State of California

Defense Attorney(s):

- Ryan W. Alley; Tiza Serrano Thompson & Associates; Sacramento, CA for State of California, O'Deli Cafe

Defendant Expert(s):

- Rodney C. Diaz M.D.; Otolaryngology; Sacramento, CA called by: for Ryan W. Alley

Insurers:

- State Farm Insurance Cos.

Facts:

On April 9, 2015, plaintiff Gillian Van Muyden, 59, an attorney, was at O'Deli Café, a cafeteria and lunchroom located on the sixth floor of the California State Capitol Building, in Sacramento. She tripped on the walkway and fell over a 24 pack of 20-ounce plastic soda bottles. She claimed injuries to her neck and throat.

Van Muyden sued O'Deli Café, which was owned by Dam Khan and Stephanie Khan, and the owner and operator of the capitol building, the state of California. Van Muyden alleged the defendants were negligent in their maintenance of the store, creating a dangerous condition. Specifically, she claimed the defendants should have been more diligent in their control of the restaurant and should not have placed the pack of soda in the walkway.

Defense counsel asserted that Van Muyden was inattentive and that Van Muyden would have seen the open and obvious condition if she was watching where she was going.

Injury:

Van Muyden claimed sprains and strains to her neck, which allegedly affected her throat. She claimed that after the accident, she suffered from soreness and stiffness to her neck and upper back, which caused weakness in, and loss of control over, her vocal chords, causing her to have problems singing. Van Muyden claimed that her injuries affected her ability to smoothly switch from chest to head voice and from head to chest voice (her upper and lower registers).

Van Muyden, who sang for most of her life, joined a lawyers' choir group in southern California 1.5 years before the subject incident and began taking weekly voice lessons. She claimed her voice coach noticed a hitch in her register between F and F sharp and that it became a source of frustration for her when singing. She claimed that as a result, she will require ongoing therapy for her neck and voice.

Plaintiff's counsel contended that the cervical sprains and strains caused a difference in Van Muyden's voice.

The plaintiff's voice and speech pathology expert, who is a vocal therapist and singing voice specialist, opined that Van Muyden's neck muscles were impacted and that the injury caused a change in Van Muyden's voice.

The plaintiff's otolaryngology expert, a workers' compensation appointed physician, opined that because Van Muyden had no problems before the accident, but had problems after the accident, that it must be related to the fall.

Van Muyden sought recovery of economic damages for her future medical costs. (She waived her past economic damages.) She also sought recovery of non-economic damages for her past and future pain and suffering.

The defense's otolaryngology expert opined that there was no impact to the muscles in the front of Van Muyden's neck, which the expert testified he would have expected for Van Muyden to suffer a vocal change. The expert opined that as a result of his findings, Van Muyden's vocal issues were not related to any injuries she may have sustained from the subject trip and fall and that Van Muyden's vocal change was probably due to more hormonal issues, such as menopause, of which she was at the appropriate age.

Result:

The jury found that the defendants were 100 percent negligent and that their negligence was a substantial factor in causing Van Muyden harm. It also determined that Van Muyden's damages totaled $25,683.

Gillian Van Muyden

$9,500 Personal Injury: past non-economic damages

$16,183 Personal Injury: future noneconomic damages

Trial Information:

Judge:	David W. Abbott
Demand:	$75,000
Offer:	$50,000
Trial Length:	3 days
Trial Deliberations:	3 days
Editor's Comment:	This report is based on information that was provided by defense counsel. Plaintiff's counsel did not respond to the reporter's phone calls.
Writer	Priya Idiculla

Plaintiff claimed nerve condition caused by fall at grocery store

Type: Verdict-Plaintiff

Amount: $490,000

State: California

Venue: Santa Clara County

Court: Superior Court of Santa Clara County, Santa Clara, CA

Injury Type(s):
- *back* - myelopathy
- *neck* - myelopathy
- *other* - physical therapy; loss of consortium; aggravation of pre-existing condition
- *neurological* - neurological impairment; autonomic dysreflexia

Case Type:
- *Premises Liability* - Store; Dangerous Condition; Negligent Repair and/or Maintenance
- *Slips, Trips & Falls* - Trip and Fall

Case Name: Eddie Gale Stevens, Jr., aka Eddie Gale, and Georgette Gale Stevens v. SaveMart Supermarkets dba Food Maxx Supermarkets, No. 2015-1-CV-288676

Date: March 28, 2018

Plaintiff(s):
- Georgette Gale Stevens (Female, 61 Years)
- Eddie Gale Stevens, Jr. (Male, 72 Years)

Plaintiff Attorney(s):
- Dan C. Schaar; Schaar & Silva, LLP; Campbell CA for Eddie Gale Stevens, Jr., Georgette Gale Stevens
- Eva D. Silva; Schaar & Silva, LLP; Campbell CA for Eddie Gale Stevens, Jr., Georgette Gale Stevens
- Paul F. Caputo; Caputo & Van Der Walde, LLP; Campbell CA for Eddie Gale Stevens, Jr., Georgette Gale Stevens

Plaintiff Expert (s):
- Brad P. Avrit P.E.; Safety; Marina del Rey, CA called by: Dan C. Schaar, Eva D. Silva, Paul F. Caputo

Defendant(s):
- SaveMart Supermarkets

Defense Attorney(s):

- James C. Hyde; Ropers, Majeski, Kohn & Bentley; San Jose, CA for SaveMart Supermarkets

Defendant Expert(s):

- Peter C. Cassini M.D.; Neurology; Palo Alto, CA called by: for James C. Hyde

Facts:

At around 1:35 p.m. on June 5, 2014, plaintiff Eddie Gale Stevens Jr., 72, a professional trumpet player, walked into a FoodMaxx supermarket on Parkmoor Avenue, in San Jose. Directly inside of the front door of the grocery store were large stacks of water bottles on a pallet, but next to that pallet was a nearly empty pallet. Stevens was looking to his right, away from the pallets, while turning to his left. As he took two to three steps, he tripped and fell over the nearly empty pallet. The incident was captured on video. Stevens claimed injuries from an aggravation of a pre-existing spinal injury.

Stevens sued the store owner, SaveMart Supermarkets, which was doing business as Food Maxx Supermarkets. Stevens alleged that the defendant failed to properly address a dangerous condition, causing his trip and fall.

The plaintiff's safety expert concluded that the condition was dangerous and that the conduct of the defendant fell below the standard of care in the grocery industry.

During discovery, a former employee testified that he was trained that a pallet left on the floor was a hazard and that if he had seen the pallet in the condition it was at the time of the fall, he would have removed it. A current employee also testified that it was her practice to follow the mantra, "Don't pass it up, pick it up." She claimed that this meant that they should always be on the lookout for problems. However, plaintiff's counsel noted that the employee was seen on the video walking past the dangerous condition 18 minutes before the fall and did nothing to remedy the problem.

The person most knowledgeable for safety at the store, who also happened to be the store manager, was asked about whether he thought of customer safety when he was designing displays of products on pallets. He testified, "No. I don't think of safety. I think of sales."

Defense counsel argued that the condition of the pallet was not dangerous and that even if it was, the condition was open and obvious, as no one else tripped over it.

Injury:

Stevens claimed that he suffered an aggravation to his pre-existing spinal stenosis, resulting in cervical myelopathy and autonomic hyperreflexia.

Stevens did not claim any injury at the scene and went home with no complaints. However, the next day, he woke up suffering with, what he referred to as, "whole body" jerking. He subsequently went with his wife to a Kaiser facility, where he underwent X-rays, which showed nothing but degenerative changes. A few weeks later, Stevens started physical therapy. However, he claimed he continued to have body jerks, causing him to have difficulties with playing his trumpet. Eventually, Stevens was sent to neurology, where his deep tendon reflexes indicated that he had autonomic hyperreflexia, or autonomic dysreflexia, a condition in which ones involuntary nervous system overreacts to external or bodily stimuli.

The treating neurologist concluded that Stevens was suffering from cervical myelopathy due to trauma on his pre-existing spinal stenosis, causing the hyperreflexia in Stevens' upper extremities.

Stevens is a professional jazz trumpeter, who had played with the likes of Cecil Taylor, John Coltrane and the great Master Sun Ra. He has recorded a number of albums and is in the Smithsonian Collection of Classic Jazz. Stevens, who is known for his extensive work and amazing story, led him to be named San Jose's "Ambassador of Jazz," which was bestowed on him in 1974 by then San Jose Mayor Norman Mineta. At the time of the fall, he was in the process of remaking his 1968 album "Ghetto Music." However, Stevens' claimed that as a result of the fall and his injuries, his ability to play the trumpet became severely limited.

Thus, plaintiff's counsel asked the jury to award $795,000 for Stevens' past and future pain and suffering. (Stevens waived his special damages.) Counsel also asked the jury to award $79,500 for the loss of consortium allegedly suffered by Stevens's wife, Georgette Gale Stevens.

The defense's neurology expert, who performed the defense medical examination, opined that Mr. Stevens should have been better in no greater than six weeks after the fall and that all of Stevens' complaints were age-related.

Result:

The jury found that SaveMart Supermarkets was negligent in the maintenance of its store and that its negligence was a substantial factor in causing Mr. Stevens harm. It also determined that Mr. and Ms. Stevens' damages totaled $490,000, including $410,000 for Mr. Stevens' damages and $80,000 for Ms. Stevens' damages.

Georgette Gale Stevens

$80,000 Personal Injury: loss of consortium

Eddie Gale Stevens, Jr.

$110,000 Personal Injury: Past Pain And Suffering

$300,000 Personal Injury: Future Pain And Suffering

Trial Information:

Judge:	Drew C. Takaichi
Demand:	$300,000 global
Offer:	$55,000 global
Trial Length:	4 days
Trial Deliberations:	3 hours
Jury Vote:	12-0 as to SaveMart's liability; 10-2 as to damages; 11-1 as to Mr. Stevens' liability; 10-2 as to apportionment of fault
Jury Composition:	6 male, 6 female
Editor's Comment:	This report is based on information that was provided by plaintiffs' counsel. Defense counsel did not respond to the reporter's phone calls.
Writer	Priya Idiculla

Plaintiff: Fall at store caused permanent ankle injury, CRPS

Type: Verdict-Plaintiff

Amount: $2,073,374

Actual Award: $1,658,699

State: California

Venue: Fresno County

Court: Superior Court of Fresno County, Fresno, CA

Injury Type(s):
- *hip* - labrum, tear (hip)
- *leg*
- *ankle* - ankle ligament, tear; sprain/strain
- *other* - swelling; physical therapy; decreased range of motion
- *foot/heel* - foot
- *neurological* - reflex sympathetic dystrophy; complex regional pain syndrome
- *mental/psychological* - depression; emotional distress

Case Type:
- *Slips, Trips & Falls* - Falldown
- *Worker/Workplace Negligence* - Negligent Training

Case Name: Kulvir Kaur v. HomeGoods, Inc., The TJX Companies, Inc., Village Shopping Center, LLC, and Does 1 to 30, No. 15 CE CG 00621

Date: May 31, 2017

Plaintiff(s):
- Kulvir Kaur (Female, 49 Years)

Plaintiff Attorney(s):
- Jacob J. Rivas; Law Office of Jacob J. Rivas; Fresno CA for Kulvir Kaur

Plaintiff Expert (s):

- Kurt V. Miller M.D.; Neurology; Fresno, CA called by: Jacob J. Rivas
- Jacob D. Thompson D.P.M.; Podiatry; Fresno, CA called by: Jacob J. Rivas
- James E. Flynn P.E.; Engineering; Fresno, CA called by: Jacob J. Rivas
- Karen L. Aznavoorian M.A.; Life Care Planning; Fresno, CA called by: Jacob J. Rivas
- Jennie M. McNulty C.P.A., M.B.A.; Economics; Los Angeles, CA called by: Jacob J. Rivas

Defendant(s):

- TJX Cos. Inc.
- HomeGoods Inc.
- Village Shopping Center LLC

Defense Attorney(s):

- None reported for TJX Cos. Inc.
- Michael A. Dolan Jr.; Dolan & Associates; Westlake Village, CA for HomeGoods Inc., Village Shopping Center LLC

Defendant Expert(s):

- Jan Roughan R.N., B.S.N.; Life Care Planning; Monrovia, CA called by: for Michael A. Dolan Jr.
- Alex J. Balian M.B.A.; Retail Safety; West Hills, CA called by: for Michael A. Dolan Jr.
- Carl Sheriff P.E.; Accident Reconstruction; Toluca Lake, CA called by: for Michael A. Dolan Jr.
- Renee K. Howdeshell C.P.A.; Economics; Los Angeles, CA called by: for Michael A. Dolan Jr.
- Donald R. Huene M.D.; Orthopedic Surgery; Fresno, CA called by: for Michael A. Dolan Jr.
- Harvey L. Edmonds M.D.; Neurology; Fresno, CA called by: for Michael A. Dolan Jr.
- Robert B Post Ph.D.; Ergonomics/Human Factors; Granite Bay, CA called by: for Michael A. Dolan Jr.
- Stephen L. G. Rothman M.D.; Neuroradiology; Los Angeles, CA called by: for Michael A. Dolan Jr.

Insurers:

- Zurich North America

Facts:

On April 19, 2013, plaintiff Kulvir Kaur, 49, a homemaker, drove to a HomeGoods store, in Fresno, to return four dinner chairs that she had previously purchased. A store employee met her in the parking lot with a flatbed cart and loaded the four chains on the cart to be transported into the store. As the employee began pushing it toward the store, the chairs became unstable and fell to the ground. In response, the worker asked Kaur to walk beside the cart and hold the chairs in place to prevent any further falls, which Kaur agreed to do.

As they arrived at the threshold of the store's entrance, the store employee allegedly angled the cart toward Kaur and pushed it into her, striking her leg. Kaur allegedly lost her balance and fell on her right hip. Kaur claimed injuries to her right hip and ankle.

Kaur sued the operator of the store, HomeGoods Inc.; the property owner, Village Shopping Center LLC; and the owner of the HomeGoods franchise, The TJX Companies Inc. Kaur alleged that the defendants failed to train the store employee and implement proper safety procedures. Kaur's counsel cited surveillance footage of the accident to argue that the store employee angled the cart toward Kaur, striking her in her right leg.

In his deposition testimony, which was read at trial, Kaur's safety engineering expert testified that HomeGoods lacked the requisite safety procedures, namely that the store employee had not received any training to operate a flatbed cart (the employee had operated a flatbed cart, on prior occasions).

Kaur's counsel further faulted the HomeGoods employee for asking for Kaur's help, when it would have been more appropriate to ask for the assistance of a co-worker.

HomeGoods' counsel maintained that Kaur was contributorily negligent and solely responsible for the accident. Its counsel cited the surveillance footage, noting that Kaur had turned her head in a different direction of the flatbed cart as she and the store employee entered the store and that, in doing so, she then stepped into the cart, causing her to fall.

Since no evidence was presented against the property owner, the court granted a motion for non-suit, and Village Shopping Center was dismissed. In addition, The TJX Companies was dismissed from the case early on.

Injury:

Kaur's husband drove her to an emergency room where she was X-rayed and diagnosed with a right-ankle sprain. Kaur alleged that she suffered the injury by the twisting and turning of her ankle/foot when she lost her balance and fell.

On April 23, 2013, five days after the incident, Kaur presented to a medical provider with complaints of pain to her right ankle and severe pain to her right hip. She was subsequently prescribed physical therapy. In the ensuing months, and through 2014, Kaur treated with rehabilitation, underwent MRIs (which were negative), underwent a lidocaine injection to her hip, and consulted with a podiatrist and an orthopedic surgeon. Her podiatrist had suspected complex regional pain syndrome, also known as reflex sympathetic dystrophy or causalgia, a chronic pain condition, but the podiatrist ruled it out after performing a bone scan that was negative.

In spring 2014, Kaur, via a second MRI, was diagnosed with a labrum tear of the right hip. In July 2014, Kaur, experiencing ongoing swelling and a burning sensation in her

right ankle, along with shooting pains, presented to another podiatrist for a second opinion, and a second MRI showed tears of two ankle ligaments. In October 2014, she underwent surgery to repair the torn ligaments. (Around this time, she had stopped treating for her hip, as it was determined that she required surgical repair of the labrum tear.)

Despite the ankle procedure, Kaur's symptoms allegedly persisted. She continued physical therapy, treated with medication, and consulted with her podiatrist.

In August 2015, Kaur was referred to a physiatrist, who suspected complex regional pain syndrome, given Kaur's symptoms, which at that time included discoloration of the right ankle and foot. The physician continued Kaur on medication through June 2016, at which time a bone scan was positive for complex regional pain syndrome. She then received two sympathetic nerve-block injections, which provided temporary relief. In August 2016, a temporary neurostimulator was implanted in her spine to alleviate her pain, and a permanent one was inserted the following month. Other than consulting with a neurologist and physiatrist, no further treatment was administered.

Kaur's treating podiatrist, who performed the ankle surgery, confirmed that Kaur suffered two ligament tears and that the surgery was necessary to repair those tears.

Kaur's neurology expert causally related Kaur's complex regional pain syndrome to the accident. According to the expert, it is a permanent condition that will cause Kaur to experience constant, extreme pain for the rest of her life, which has rendered her significantly impaired and disabled. The neurostimulator will not cure her condition, but it will control her pain, according to the expert, who noted that every 10 years Kaur will require surgery to replace the neurostimulator's batteries. The expert also confirmed that Kaur needs hip surgery to repair her labrum tear. In addition to her physical impairments, Kaur also suffers from depression, which typically accompanies complex regional pain syndrome, the expert neurologist opined.

Kaur, who was unemployed at the time of the accident (she was a homemaker), testified that her constant pain and restrictions in her ankle and hip have greatly diminished her physical activities. She claimed she no longer is able to pursue her hobbies in interior design and home decoration, which included decorating her family's home for the holidays and attending fashion trade shows. She also claimed that she is no longer active in her church, which included leading a children's group, nor does she cook and clean around the house. Not only is she physically unable to do these things, but she has lost interest in the activities, Kaur alleged.

Kaur's husband testified about his wife's alleged limitations and how her personality has changed. He claimed that she exhibits aloofness and sadness, and is short-tempered, which has affected their relationship. He also testified that Kaur is sleep-deprived, since she wakes up one to two hours per night due to the pain.

Thus, Kaur sought recovery of $94,519.80 in past medical costs and $978,854 in future medical costs, which included her future surgeries, psychotropic medication, and counseling. She also sought recovery of damages for her past and future pain and suffering.

HomeGoods' radiology expert testified that there was no pathology on Kaur's films to

indicate that she suffered ligament tears in her right ankle. In addition, the store's neurology expert maintained that Kaur's ankle reconstruction and repair was an unnecessary and improper procedure amounting to professional negligence by the surgeon who performed the surgery.

HomeGoods' orthopedic surgery expert opined that the labral tear in the hip was degenerative and not causally related to the accident.

The store's expert life-care planner criticized the components of Kaur's alleged life-care plan, opining that certain treatments were unnecessary and, therefore, so were its costs. As a result, HomeGoods' economics expert presented a range of approximately $450,000 to about $750,000.

Thus, defense counsel for HomeGoods asserted that because the right ankle repair and reconstruction procedure was unnecessary and improper, HomeGoods was not responsible for the complex regional pain syndrome, which was solely caused by the surgery.

Result: The jury found Kaur 20 percent liable and HomeGoods 80 percent liable. It also determined that Kaur's damages totaled $2,073,373.80, which was accordingly reduced to $1,658,699.04.

Kulvir Kaur

$94,520 Personal Injury: Past Medical Cost

$978,854 Personal Injury: Future Medical Cost

$114,286 Personal Injury: Past Pain And Suffering

$885,714 Personal Injury: Future Pain And Suffering

Trial Information:

Judge: Jeffrey Y. Hamilton Jr.

Demand: $2 million

Offer: $1.5 million

Trial Length: 8 days

Trial Deliberations:	4 hours
Jury Vote:	12-0
Jury Composition:	5 male, 7 female
Editor's Comment:	This report is based on information that was provided by plaintiff's counsel. Defense counsel did not respond to the reporter's phone calls.
Writer	Aaron Jenkins

Plaintiff claimed spinal injuries from slip and fall at supermarket

Type: Verdict-Plaintiff

Amount: $215,683

State: California

Venue: Sacramento County

Court: Superior Court of Sacramento County, Sacramento, CA

Injury Type(s):
- *back* - bulging disc, lumbar
- *neck*
- *other* - ablation; soft tissue; back and neck; loss of consortium; epidural injections; decreased range of motion

Case Type:
- *Premises Liability* - Store; Dangerous Condition; Negligent Repair and/or Maintenance
- *Slips, Trips & Falls* - Slip and Fall

Case Name: Susan Oby and Robert Oby v. Save Mart Supermarkets and Does 1-25, Inclusive, No. 34-2015-00176138

Date: April 12, 2017

Plaintiff(s):
- Susan Oby (Female, 58 Years)
- Robert Oby (Male)

Plaintiff Attorney(s):
- Todd S. Bissell; Todd S. Bissell, A Prof. Law Corp.; Folsom CA for Susan Oby, Robert Oby

Plaintiff Expert (s):
- John D. Hancock Ph.D.; Economics; Gold River, CA called by: Todd S. Bissell
- Carol R. Hyland M.A.; Life Care Planning; Lafayette, CA called by: Todd S. Bissell
- Daniel J. Cooper D.O.; Family Medicine; Folsom, CA called by: Todd S. Bissell
- Daniel Dunlevy M.D.; Physical Medicine; Citrus Heights, CA called by: Todd S. Bissell
- Stephen K. Parkinson M.D.; Pain Management; Sacramento, CA called by: Todd S. Bissell

Defendant(s):

- Save Mart Supermarkets

Defense Attorney(s):

- Bradley J. Swingle; Arata Swingle Van Egmond & Goodwin; Modesto, CA for Save Mart Supermarkets

Defendant Expert(s):

- Casey Word F.S.A., M.A.A.A.A.; Actuaries; San Francisco, CA called by: for Bradley J. Swingle
- VanBuren R. Lemons M.D.; Neurosurgery; Sacramento, CA called by: for Bradley J. Swingle

Facts:

On Aug. 22, 2014, plaintiff Susan Oby, a 58-year-old woman, slipped and fell in water leaking from an overhead air conditioner in the Folsom Save Mart. She claimed injuries to her neck and back.

Oby sued Save Mart Supermarkets, alleging that Save Mart failed to repair and/or maintain the air conditioning unit, creating a dangerous condition.

Oby contended that Save Mart knew that its air conditioner was faulty, but that it did nothing to maintain or repair it. She claimed that as a result, the air conditioner leaked and caused her to slip and fall.

Save Mart initially denied liability and cross-complained against its air conditioning vendor, claiming that it failed to repair the leaky unit. However, once the vendor established that it made repair recommendations to Save Mart that Save Mart never authorized or scheduled before Oby slipped, Save Mart dismissed its cross-complaint and admitted liability.

Injury:

Oby claimed that she sustained bulging lumbar discs, as well as soft-tissue and facet injuries to her neck and back. She was subsequently taken by ambulance from Save Mart to a hospital, and ultimately underwent three epidural injections and two radiofrequency ablations. However, she claimed the treatment did not totally resolve her pain. Thus, she claimed she was left with residual, on-going, lower back pain symptoms in her neck and back, which she managed with medication, as needed. However, Oby had not consulted with a surgeon nor had any treatment during the nine months before trial.

At that time of the accident, Oby was not employed outside of her home, but worked as in-home caretaker for her husband, plaintiff Robert Oby, who suffered from Parkinson's disease. Although Ms. Oby got paid by In Home Support Services, she claimed she was also looking for work in the fast-food industry. However, Ms. Oby claimed that she was delayed in returning to work for one year because of her injuries, but that she ultimately became employed at McDonald's part-time, earning $9 per hour.

The plaintiff's physical medicine expert testified that because of Ms. Oby's residual complaints, which included limitations in standing, bending, carrying certain things due to Ms. Oby's lower back pain, Ms. Oby should not work or continue assisting her husband as his in-home caretaker. He also opined that Ms. Oby would likely require surgery in the future to address her bulging lumbar discs.

The plaintiff's expert life care planner prepared a life care plan and testified that Ms. Oby's medical charges were within the usual and customary range for the Folsom/Sacramento area. However, plaintiff's counsel noted that all of the alleged medical damages were on liens, as Ms. Oby was uninsured. In addition, the plaintiff's economics expert reduced the alleged damages to present value.

Thus, Ms. Oby sought recovery of $115,682 in past medical costs and $1.2 million in future medical costs, if she had the treatment her physical medicine expert suggested. She also sought recovery of $9,360 in past lost earnings and $82,000 in future lost earnings, if she stopped working. In addition, she sought recovery of damages for her past and future pain and suffering.

Mr. Oby sought recovery of damages for his loss of consortium.

Plaintiff's counsel asked the jury to award the Obys in excess of $2 million.

Defense counsel argued that Ms. Oby's treatment was excessive and that, based on the testimony of the defense's actuary expert, the medical charges were unreasonable and should have only totaled approximately $50,000.

The defense's neurosurgery expert opined that Ms. Oby only suffered a soft-tissue injury.

Defense counsel argued that Ms. Oby's claim for lifetime medical expenses of approximately $1.2 million was unreasonable and not supported by the evidence. In addition, counsel argued that Ms. Oby's work hours caring for her husband actually went up after the accident and that Ms. Oby did not suffer any wage loss.

Result: The jury determined that Ms. Oby's damages totaled $215,682.54. However, it declined to award Ms. Oby for her alleged lost wages, future medical costs, or future non-economic damages. It also declined to award Mr. Oby damages for his loss of consortium claim.

Susan Oby

$115,683 Personal Injury: Past Medical Cost

$100,000 Personal Injury: past non-economic loss

Trial Information:

Judge: Christopher E. Krueger

Demand: $200,000 (C.C.P. § 998)

Offer: $85,000 to Ms. Oby; Waiver of costs to Mr. Oby

Trial Length: 7 days

Trial Deliberations: 1 days

Post Trial: The plaintiffs filed a $55,683 cost bill, which included expert fees and pre-trial interest per C.C.P. § 998. The defense filed a $53,304 cost bill on Mr. Oby's derivative claim with a declaration that he was seeking 25 percent of all of his costs. Both sides filed motions to tax costs. On July 5, 2017, the court awarded the plaintiffs 100 percent of their costs, and struck 100 percent of the defense's costs. With post-trial interest, Ms. Oby's recovery totaled $281,000, which was paid in full.<

Editor's Comment: This report includes information that was gleaned from court documents and an article that was published by Jury Verdict Alert.com, as well as from an interview of plaintiff's counsel. Defense counsel did not respond to the reporter's phone calls.

Writer Priya Idiculla

Fall in hotel lobby aggravated prior knee condition: plaintiff

Type: Verdict-Plaintiff

Amount: $208,553

Actual Award: $234,125

State: California

Venue: Placer County

Court: Superior Court of Placer County, Placer, CA

Injury Type(s):
- *back* - bulging disc
- *knee*
- *neck* - bulging disc
- *other* - soft tissue; back and neck; aggravation of pre-existing condition

Case Type:
- *Premises Liability* - Hotel or Motel; Failure to Warn
- *Slips, Trips & Falls* - Slip and Fall

Case Name: Joe Borowski v. The Ritz-Carlton Hotel Company, LLC; Landcorp Management Services, LLC; Joas Services, LLC; and Jasmine Torres, No. S-CV-0034735

Date: January 06, 2017

Plaintiff(s):
- Joe Borowski (Male, 51 Years)

Plaintiff Attorney(s):
- Todd S. Bissell; Todd S. Bissell Law Corp.; Folsom CA for Joe Borowski

Plaintiff Expert (s):
- Kevin P. Hansen M.D.; Orthopedic Surgery; Roseville, CA called by: Todd S. Bissell
- Daniel Dunlevy M.D.; Physical Medicine; Citrus Heights, CA called by: Todd S. Bissell
- Vincent Hoffart D.C.; Chiropractic; Rocklin, CA called by: Todd S. Bissell

Defendant(s):

- Jasmine Torres
- Joas Services, LLC
- Landcorp Management Services, LLC
- The Ritz-Carlton Hotel Company, LLC

Defense Attorney(s):

- Victoria M. Yamamoto; Law Offices of Harris & Yempuku; Sacramento, CA for The Ritz-Carlton Hotel Company, LLC, Landcorp Management Services, LLC, Jasmine Torres, Joas Services, LLC

Defendant Expert(s):

- Peter N. Sfakianos M.D.; Orthopedic Surgery; Folsom, CA called by: for Victoria M. Yamamoto

Insurers:

- Liberty Mutual Insurance Co.

Facts:

At around 1 a.m. on May 24, 2014, plaintiff Joe Borowski, 51, a self-employed plastics fabricator, was a guest at The Ritz-Carlton, Lake Tahoe, in Truckee, watching a meteor shower with his girlfriend near the outside fire pit. As they entered the hotel lobby and walked toward the elevator, Borowski slipped on a wet floor that had just been mopped. He claimed injuries to his neck, back, and a knee.

Borowski sued the operator of the hotel, The Ritz-Carlton Hotel Co., LLC; a subcontractor from Arizona who performed janitorial services at night, Landcorp Management Services, LLC; a small housekeeping company from Reno that was subcontracted by Landcorp, Joas Services, LLC; and an employee for Joas Services, LLC, who had mopped the floor before the accident, Jasmine Torres. Borowski alleged that the defendants were negligent for failing to properly warn of the recently mopped floor, creating a dangerous condition.

Several of the defendants' insurance carriers tendered their defense to the Ritz-Carlton's carrier, who accepted those tenders. Thus, counsel for Ritz-Carlton's carrier defended all four defendants.

Borowski denied seeing a "wet-floor" sign in the area and claimed the lack of proper warnings caused his slip and fall.

Defense counsel argued that Borowski was drinking alcohol prior to his slip at the Ritz-Carlton and that Borowski should have seen the "wet-floor" sign that was right in front of him. Thus, counsel denied the defendants were liable for the accident. Defense counsel also noted that the incident was witnessed by Ritz-Carlton's security officer, who was on patrol. He testified that there was a "wet floor" warning sign only a few feet away from where Borowski slipped. He also testified that he observed Borowski hyperextend his knee and that he transported Borowski to the emergency room.

Injury: Borowski claimed he sustained soft-tissue injuries to his back and neck, as well as an exacerbation of pre-existing knee symptoms. He was subsequently taken to an emergency room. Although Borowski claimed he had a positive disc bulge on an MRI, he did not have that condition worked-up, as the primary complaint was always his knee. Borowski had chiropractic and physical therapy treatment, and he underwent a total knee replacement, which was performed by treating orthopedic surgery expert.

Borowski contended that he was physically doing well from his pre-existing injuries at the time of his slip at the Ritz-Carlton and that the incident aggravated his condition.

The plaintiff's treating orthopedic surgery expert testified that because of Borowski's age, Borowski would likely need the knee implant replaced at some point in his lifetime.

Thus, Borowski sought recovery of $2 million in total damages, including $83,553.41 in past medical costs, and unspecified amounts in future medical costs for a future knee surgery and in non-economic damages for his past and future pain and suffering. Borowski was self-employed and did not make a claim for lost wages.

Defense counsel contended that Borowski had six prior knee surgeries arising from a motorcycle accident as a teenager, a workers' compensation slip-and-fall 10 years after the crash, and another slip and fall at a 7-11 store several years after that, which resulted in litigation. Counsel also contended that Borowski had a second workers' compensation slip-and-fall accident at another job five years before the incident at the Ritz-Carlton. Thus, defense counsel argued that Borowski's knee condition was degenerative and unrelated to the incident at the Ritz-Carlton.

Result: The jury apportioned 1 percent liability to Borowski, 1 percent liability to Torres, 12 percent liability to Joas Services, 43 percent liability to Landcorp, and 43 percent liability to Ritz-Carlton. It also determined that Borowski's damages totaled $208,553.41.

After apportionment, Borowski should recover $206,467.88.

Joe Borowski

$83,553 Personal Injury: Past Medical Cost

$25,000 Personal Injury: Future Medical Cost

$100,000 Personal Injury: non-economic damages

Trial Information:

Judge: Jeffrey Penney

Demand:	$300,000 (C.C.P. § 998)
Offer:	None reported
Trial Length:	8 days
Trial Deliberations:	1 days
Post Trial:	Plaintiff's counsel moved for additur, attorney fees, and costs of proof for the defendants' denial of liability in requests for admissions. Defense counsel noted that the amount of additur and attorney fees requested was in excess of $200,000. The court denied the additur motion, but granted the costs-of-proof motion, awarding the plaintiff an additional $7,500 in attorney fees and costs. Thus, Borowski's award totaled $234,125, which was paid in full by Ritz-Carlton's insurer.
Editor's Comment:	This report is based on information that was provided by plaintiff's and defense counsel.
Writer	Priya Idiculla

Defense claimed plaintiff was still using alleged injured leg

Type: Verdict-Plaintiff

Amount: $66,950

State: California

Venue: Fresno County

Court: Superior Court of Fresno County, Fresno, CA

Injury Type(s):
- *hip*
- *back* - lower back; contusion, spine; bulging disc, lumbar
- *neck* - contusion, spine
- *other* - buttocks; chiropractic; sacroiliitis; tailbone/coccyx; steroid injection; loss of consortium; epidural injections
- *epidermis* - numbness; contusion
- *mental/psychological* - anxiety; emotional distress

Case Type:
- *Premises Liability* - Store; Dangerous Condition; Negligent Repair and/or Maintenance
- *Slips, Trips & Falls* - Slip and Fall

Case Name: Jennifer Lewis and Bryan Butts, husband and wife v. Save Mart Supermarkets dba Food Maxx #459, a California corporation, and Does 1-25, Inclusive, No. 14CECG01191

Date: December 07, 2016

Plaintiff(s):
- Bryan Butts (Male)
- Jennifer Lewis (Female, 52 Years)

Plaintiff Attorney(s):
- Andrew B. Jones; Wagner & Jones LLP; Fresno CA for Jennifer Lewis, Bryan Butts

Plaintiff Expert (s):
- Brian Brice M.D.; Physical Medicine; Fresno, CA called by: Andrew B. Jones
- Valerie Forward Ph.D.; Psychology/Counseling; Fresno, CA called by: Andrew B. Jones

Defendant(s):
- Save Mart Supermarkets

Defense Attorney(s):

- Eric V. Grijalva; Parker, Kern, Nard & Wenzel; Fresno, CA for Save Mart Supermarkets

Defendant Expert(s):

- Geoffrey E. Miller M.D.; Orthopedic Surgery; El Segundo, CA called by: for Eric V. Grijalva

Facts:

On May 30, 2012, plaintiff Jennifer Lewis, 52, a typesetter and advertiser for a newspaper, was entering a Food Maxx store in Clovis when she slipped and fell on water near the front entrance. Lewis claimed injuries to her lower back, tail bone, hips, and buttocks.

Lewis sued the operator of Food Maxx, Save Mart Supermarkets. Lewis alleged Save Mart failed to properly maintain the store, creating a dangerous condition.

Save Mart admitted liability.

Injury:

Lewis claimed the fall caused a curvature of her spine and a possible coccyx or sacral injury, based on the results of an X-ray that was performed. She also claimed she sustained a lumbar disc protrusion, a lower back/coccyx contusion, and sacroiliitis. Lewis initially attempted to treat at home and tried to work as normal, but a week later, she attempted to see her primary care doctor. However, her doctor would not see Lewis, as the physician did not want to be involved in a potentially litigated case. As a result, Lewis was referred to a medical center as a walk-in and she subsequently received chiropractic manipulation at the medical center through July 9, 2012.

On July 30, 2012, an MRI was performed, but the sacrum and coccyx were determined to be negative for an injury. However, there was an incidental note on the MRI of a vertebral haemangioma at the L5 level, but there was no evidence of sacroiliitis. A former attorney then referred Lewis for chiropractic X-rays on Oct. 17, 2012, and everything appeared normal, including for the sacrum and coccyx.

On Nov. 27, 2012, Lewis saw an orthopedic surgeon, who told Lewis that she could not work anymore, as Lewis had complaints of lower back pain radiating into her right and left legs. Lewis then underwent an MRI of her lower back and right hip in March 2013, and the MRI showed a diffuse bulge at L3-4 and L4-5 with mild narrowing of the central foramina, as well as at L2-3 and L5-S1 without significant narrowing. An arthrogram was attempted, but Lewis could not lie on her right hip. She was then referred to her treating pain management physician, who examined her in May 2013. The treater ultimately performed a lumbar epidural steroid injection on Lewis. Although the treater's records noted that Lewis had relief, Lewis claimed that she did not. As a result, Lewis underwent another injection on Oct. 24, 2013.

By 2014, Lewis was diagnosed with a possible contusion of the right sciatic nerve, and in May 2014, she saw another orthopedic surgeon, who recommended that she continue treating with Ambien. In September 2014, she saw another pain management physician and complained of ongoing pain in her lower back, coccyx, and right hip, as well as and numbness and tingling in her left leg and pain in her right leg. Lewis was subsequently diagnosed with right hip arthritic changes, lumbar degenerative disc disease, lumbar facet syndrome, and a coccyx contusion. As a result, she was referred to imaging for an MRI arthrogram, and it was noted that she had a tear in her superior anterior labrum in her right hip. As a result, Lewis requested a wheelchair. She then found another orthopedic

surgeon, who also assessed her with a right hip labral tear with atypical presentation. The surgeon opined that surgery was not necessary, but that Lewis should have a cortisone injection in her hip.

The plaintiff's physical medicine expert opined that all of Lewis' injuries and treatment were related to the subject fall.

Prior to the accident, Lewis worked as a typesetter for a newspaper and also did advertising calls. She claimed she could no longer work due to her injuries and that she ultimately had to leave her job after attempting to work for six months after the accident. Lewis stopped working in October 2012.

Lewis claimed that she is in constant and continuing, severe pain to her lower back, right hip, buttock, and leg. She alleged that as a result, she was bedridden and that her life is shattered. Lewis claimed that she developed emotional distress -- including frustration, anxiety, and hopelessness -- because she felt guilty about her condition and about allegedly no longer being able to work or walk. As a result, she treated with a counselor and psychologist.

Thus, Lewis sought recovery of $30,508.37 in past medical costs, $120,050 in past loss of earnings, between $264,000 and $330,000 in future loss of earnings, $40,000 in future medical costs for psychological treatment for the next 21 to 22 years, $2,000 in future medical costs for a pain medicine doctor/physical medicine doctor, $5,000 in future medical costs for a psychologist, $1,000 in future medical costs for epidural injections, and $1,500 per year in future medical costs for medication. She also sought recovery of $1 million in damages for her pain and suffering. Lewis' husband, Bryan Butts, presented a derivative claim seeking recovery of $500,000 in damages for his loss of consortium.

The defense's expert orthopedic surgeon opined that Lewis' limp and gait were not consistent with the injury Lewis was claiming. The expert claimed that on exam, he noted no numbness, redness or swelling to areas. He also opined that Lewis had soft tissue injuries that healed within a few months after the accident. He further opined that when he measured Lewis' calf girth of her right calf versus her left calf, he noted that Lewis' right calf was three quarters larger than her left. Thus, the expert concluded that Lewis' right leg was dominant and that she continued to use it after the accident. The orthopedic surgeon opined that there were no true objective findings of Lewis' injuries from the fall and that Lewis' treating pain management physician's opinion was unsupported by medical evidence. The expert further opined that Lewis' treatment had no medical benefits and that Lewis only needed four to eight weeks of treatment. In addition, the defense's expert opined that Lewis has some underlying medical condition, but that it would be hard to identify, as Lewis had no other medical attributes that would suggest a medical condition. As a result, the expert concluded that it was troubling that none of the treatment that Lewis had allegedly undergone was effective for her.

Result:

The jury found that the store's negligence was a substantial factor in causing harm to Lewis. It also determined that Lewis' damages totaled $66,950. However, the jury declined to award Lewis for her alleged future damages and found that the store's negligence was not a substantial factor in causing harm to Butts.

Jennifer Lewis

$20,200 Personal Injury: Past Medical Cost

$36,750 Personal Injury: Past Lost Earnings Capability

$10,000 Personal Injury: Past Pain And Suffering

Trial Information:

Judge:	Kristi Culver Kapetan
Trial Length:	7 days
Trial Deliberations:	5 hours
Jury Composition:	young jury, majority in their 20s and students
Post Trial:	Plaintiff's counsel moved for a new trial, but the motion was denied by the court.
Editor's Comment:	This report is based on information that was provided by plaintiff's and defense counsel.
Writer	Priya Idiculla

Plaintiff's inattention caused fall over concrete bollard: defense

Type: Verdict-Plaintiff

Amount: $13,000

Actual Award: $9,100

State: California

Venue: Alameda County

Court: Superior Court of Alameda County, Oakland, CA

Injury Type(s):
- *knee*
- *wrist*
- *dental*
- *face/nose* - face; face, bruise
- *hand/finger* - hand

Case Type:
- *Premises Liability* - Parking Lot; Dangerous Condition of Public Property
- *Slips, Trips & Falls* - Trip and Fall

Case Name: Rita Jurin v. Piedmont Grocery Company, No. RG16802250

Date: December 01, 2016

Plaintiff(s):
- Rita Jurin (Female, 90 Years)

Plaintiff Attorney(s):
- Frederick L. Goss; Law Offices of Frederick L. Goss; Oakland CA for Rita Jurin

Defendant(s):
- Piedmont Grocery Company

Defense Attorney(s):
- Mark J. Heisey; Santana Tcheng Vierra Symonds; San Francisco, CA for Piedmont Grocery Company

Insurers:

- Liberty Mutual Insurance Co.

Facts:

On Jan. 15, 2015, plaintiff Rita Jurin, 90, was walking in the parking lot of Piedmont Grocery Co., in Oakland, when she tripped and fell. She subsequently landed on her face, hands, and knees. Jurin claimed injuries to her mouth, knees, and wrists.

Jurin sued Piedmont Grocery Co., alleging that it failed to repair and/or maintain the parking lot's dangerous condition.

Plaintiff's counsel contended that Piedmont's parking lot contained concrete bollards, which were short concrete posts with metal rails at different intervals that formed a fence around the post. Counsel argued that sometime before the subject accident, an unknown truck driver knocked out the top two rails, leaving only one rail in the portion of the structure. Counsel argued that as a result the parking lot being left in a dangerous condition, Jurin tripped over the remaining rail and fell.

Defense counsel contended that Piedmont wanted a structure people would have to walk around because customers were tripping over the wheel stops. Counsel contended that as a result, the grocery store installed the bollards and painted the rails bright yellow. Thus, defense counsel argued that although the top two rails were knocked out, the remaining rail was open and obvious. Counsel also argued that Jurin should have seen the rail, but that she was being inattentive, looking straight ahead and not where she was stepping, while she was walking. In addition, defense counsel argued that Jurin should not have been traveling in the path of the rail in the first place.

Injury:

Jurin claimed that she bruised her face and had at least one, if not several, dental implants knocked out of her mouth during the fall. Her right knee also swelled, and she complained of weakness and pain in her right knee and right wrist. She was subsequently taken by ambulance to a hospital, where she was treated and released. Jurin then underwent treatment with her regular dentist, who placed the implant(s) back in her mouth. She also underwent physical therapy for her wrist at a Kaiser location, and she was given a cane and walker to help ambulate.

Jurin claimed facial bruising had healed, but that she has mobility issues with her knees and wrists. She alleged that as a result, she has limitations in her activities of daily living, including how long she can walk without tiring.

Thus, plaintiff's counsel asked the jury to award $100,000 for Jurin's injuries.

Defense counsel argued that with the exception of the dental work, Jurin only sustained soft tissue injuries from her fall. Counsel contended that the Kaiser medical records noted that Jurin had weakness in her body for several years before the incident and argued that Jurin's current limitations were due to her aging, advanced age, and degenerative changes, and were not linked to the subject fall.

Defense counsel argued that although Jurin had complaints that she had been compromised in some way due to her injuries, there was no records or testimony from her treaters that Jurin required further treatment. Counsel also argued that after her physical therapy, Jurin's only visits were to her primary care provider for regular checkups, during which she talked about her knee and wrist, but that her non-retained, primary care physician could not say whether Jurin's alleged knee and wrist complaints were due to the subject fall. In addition, defense counsel noted that Jurin's own family claimed that Jurin never used a cane or walker, and had no mobility issues.

Result:

The jury apportioned 70 percent liability to the grocery store and 30 percent liability to Jurin. It also determined that Jurin's damages totaled $13,000.

After apportionment, Jurin should recover $9,100.

Rita Jurin

$10,000 Personal Injury: past general damages

$3,000 Personal Injury: future general damages

Trial Information:

Judge: Robert McGuiness

Demand: $35,000

Offer: $14,000

Editor's Comment: This report is based on information that was provided by plaintiff's and defense counsel.

Writer Priya Idiculla

Homemade ramp not part of egress, defense argued

Type: Verdict-Defendant

Amount: $0

State: California

Venue: Santa Clara County

Court: Superior Court of Santa Clara County, Santa Clara, CA

Injury Type(s):
- *leg* - fracture, leg; fracture, fibula
- *ankle* - fracture, ankle; fracture, bimalleolar; fracture, distal fibula
- *other* - plate; arthrodesis; pins/rods/screws; steroid injection; hardware implanted
- *foot/heel* - foot
- *neurological* - nerve damage/neuropathy; nerve damage, peroneal nerve
- *surgeries/treatment* - open reduction; internal fixation

Case Type:
- *Premises Liability* - Residence; Dangerous Condition; Negligent Repair and/or Maintenance
- *Slips, Trips & Falls* - Slip and Fall

Case Name: Jan Gilbrecht v. Aric Gilbrecht, No. 2013-1-CV-244030

Date: June 20, 2016

Plaintiff(s):
- Jan Gilbrecht (Female, 58 Years)

Plaintiff Attorney(s):
- Thomas A. Paoli; Paoli & Geerhart, LLP; San Francisco CA for Jan Gilbrecht

Plaintiff Expert (s):
- Dale H. Fietz P.E.; Safety; Petaluma, CA called by: Thomas A. Paoli
- Jason D. Pollard D.P.M.; Podiatry Surgery; Oakland, CA called by: Thomas A. Paoli

Defendant(s):
- Aric Gilbrecht

Defense Attorney(s):

- James R. Picker; Philip M. Andersen & Associates, Inc.; Pleasanton, CA for Aric Gilbrecht

Defendant Expert(s):

- Charles Allen; Engineering; Mill Valley, CA called by: for James R. Picker

Insurers:

- State Farm Insurance Cos.

Facts:

On Nov. 17, 2012, plaintiff Jan Gilbrecht, 58, a union organizer for the National Union of Healthcare Workers, was staying at the house of her brother, Aric Gilbrecht, in Cupertino, in order to assist in caring for her brother's two young children for a few days while his wife was out of town dealing with a medical emergency involving her father. At around 8:30 a.m., Ms. Gilbrecht exited the side door of her brother's house and entered the yard with the intention of walking her dog from the side yard to the front public sidewalk, and then walking her dog around the neighborhood.

The rear and side yard were elevated, and there was a short stairway that included three wooden steps, approximately five feet in width, descending to the ground level of the front yard and driveway. The side yard area also had a shed and various things stored there, including car parts and an engine. In addition, Mr. Gilbrecht had previously built a homemade ramp that he had placed on the steps, primarily for use of his wheelbarrow in gardening. The ramp was built by attaching two wooden planks together, and it was approximately 22 inches in width. It also sloped downward from the top level at the side yard to the front yard.

As Ms. Gilbrecht exited the side door of her brother's house, it was raining lightly, allegedly causing her to slip and fall as she stepped onto the ramp. Ms. Gilbrecht claimed injuries to her left ankle.

Ms. Gilbrecht sued Mr. Gilbrecht, alleging that her brother negligently maintained his property, creating a dangerous condition.

Ms. Gilbrecht claimed that the steps on the side of her brother's house had debris on them, including car machine parts, and that the bottom of steps had a steel plate with a wooden board on top of it with some oil on it. She alleged that she had not used the ramp before the incident. However, she claimed that she walked on the ramp, which was located on the right side of the steps as she descended, because the steps did not have a clear passageway for her to enter the front yard. Thus, Ms. Gilbrecht claimed that the ramp was a dangerous and unsafe.

The plaintiff's expert mechanical and safety engineer testified that the slope of the ramp was approximately 16 percent, which was undisputed, and that a safe slope would have been eight percent under the Architectural Graphics Standards. He further testified that maximum slope allowed under the applicable Uniform Building Code was 12.5 percent, as a minimum standard. Thus, according to plaintiff's expert, the ramp did not comply with the building code. The expert further testified that the ramp was dangerous because it was "slippery," as defined in the Uniform Building Code, because of the wet and worn wood surface. The mechanical and safety engineer opined that the ramp should have had slip-resistant wood treatment or non-slip/friction tape and that the lack of those things also caused the ramp to not comply with the building code. In addition, the ramp and steps did not have a handrail. As pertaining to the steps, the expert testified that they were uneven

and the height differential was too great to comply with the building code. People had also used the ramp to walk on before the incident to enter and exit the house and property without a wheelbarrow, so the expert opined that it was part of the egress.

Defense counsel argued that the ramp was safe for its purpose of use as a wheelbarrow ramp. Counsel also argued that it did not have to comply with the applicable building code because it was not part of the egress and the intent was to use it for the wheelbarrow. Defense counsel further argued that the surface of the ramp was not slippery because the wood had a rough surface. In addition, counsel argued that the steps were compliant under the Uniform Building Code because the height differential in the treads was, in part, due to the uneven surface at the bottom of the steps.

The defense's engineering expert admitted that the steps and ramp could be used as part of the egress to exit the house from the rear and side entrances. However, he testified that the ramp was designed and primarily used for Mr. Gilbrecht's wheelbarrow to work in the garden area of the side yard and that the steps had a reasonably clear way to descend on the left side to avoid the ramp. In addition, the defense's expert engineer was critical of the plaintiff's expert, as the plaintiff's expert did not actually inspect the property or ramp.

Injury:

After falling, Ms. Gilbrecht yelled out and was assisted by her brother's wife, who had arrived home the prior evening. Her brother's wife also called for an ambulance when she saw Ms. Gilbrecht sitting at the bottom of the ramp with her left ankle in a twisted position. Ms. Gilbrecht was then transported by ambulance to the Emergency Department at El Camino Hospital, in Mountain View. An X-ray of the left ankle showed a bimalleolar fracture with lateral dislocation and angulation. Her ankle was subsequently placed in a splint, and she was prescribed pain medication. An orthopedic surgeon also performed a surgical consultation of Ms. Gilbrecht in the Emergency Department, recommended surgery, and admitted Ms. Gilbrecht to the hospital. The surgeon ultimately performed an open reduction and internal fixation of the left ankle on that same date. During the procedure, the physician inserted a side plate with screws to treat the distal fibular fracture and a screw to reduce the medial malleolus fracture. Ms. Gilbrecht was discharged three days later, on Nov. 20, 2012.

During her recovery, it was discovered that Ms. Gilbrecht had a non-union of the medial malleolus. She eventually had the plate and screw removed during a surgical procedure performed by her treating surgical podiatrist on March 25, 2015. The expert also performed an open reduction and internal fixation of the left medial colliculus to treat the nonunion. In addition, the treating expert podiatrist performed a talonavicular arthrodesis involving two screws together with the gastrocnemius recession to correct Ms. Gilbrecht's left flat foot, which was alleged to be related to the initial injury, as it had developed after the first surgical treatment and nonunion.

Ms. Gilbrecht claimed that she had continuing problems with her left foot and ankle area, including pain and numbness in the foot. As a result, she saw another physician to get a second opinion and the physician recommended the removal of the two screws in the talonavicular joint area. Thus, on Nov. 10, 2015, the physician surgically removed the screws. However, Ms. Gilbrecht claimed that she developed some continued tenderness in the talonavicular area and the peroneal nerve. The physician subsequently treated the condition with two steroid injections into March 2016, but without success. Ms. Gilbrecht claimed that as a result, she was diagnosed with permanent peroneal nerve damage.

Ms. Gilbrecht was off of work for approximately two years, though not continuously, after her fall. She claimed that she was unable to walk during her recuperation and that she could not walk for significant distances or stand for long periods of time because she would have pain and swelling. She also claimed that she can no longer hike or walk on sloped surfaces and that she still has difficulty standing for significant times. She claimed that as a result, she has not been released to full duties.

Thus, Ms. Gilbrecht sought recovery of $151,405.68 in medical costs, approximately $142,170 in lost wages, and approximately $500,000 in damages for her past and future pain and suffering.

Result: The jury found that Mr. Gilbrecht was not negligent in the use or maintenance of his property. Thus, it rendered a defense verdict.

Post-trial, plaintiff's counsel moved for a new trial based upon the declaration of a presiding juror, who was also the sole dissenter. Counsel claimed that a juror, who was an engineer, had offered an opinion based on his engineering expertise during deliberations and drew comparison diagrams depicting the slope of the ramp, as it existed, and the slope that conformed with the applicable code, if it applied. The juror also allegedly stated that the difference was "no big deal."

Trial Information:

Judge: Vincent J. Chiarello

Demand: $125,000

Offer: $100,000

Trial Length: 7 days

Trial Deliberations: 1 hours

Jury Vote: 11-1

Jury Composition: 6 male, 6 female

Post Trial: Judge Vincent Chiarello denied the motion, finding that the juror did not act improperly in drawing the freehand sketch. Chiarello also found that the juror was just commenting on the evidence admitted at trial and was not relying upon any specialized knowledge from an outside source. In fact, Chiarello found that the juror was reiterating an argument made by the defendant's attorney.

Editor's Comment: This report is based on information that was provided by plaintiffs' and defense counsel.

Writer Priya Idiculla

Fall over canes caused cognitive issues, plaintiff claimed

Type: Verdict-Plaintiff

Amount: $48,591

Actual Award: $25,154

State: California

Venue: Alameda County

Court: Superior Court of Alameda County, Oakland, CA

Injury Type(s):
- *head* - concussion; blunt force trauma to the head
- *brain* - brain damage
- *other* - chiropractic
- *face/nose* - fracture, nose
- *mental/psychological* - depression; cognition, impairment; memory, impairment; concentration, impairment; post-traumatic stress disorder

Case Type:
- *Hotel/Restaurant*
- *Premises Liability* - Restaurant; Dangerous Condition; Negligent Repair and/or Maintenance
- *Slips, Trips & Falls* - Trip and Fall

Case Name: Sally Ember v. YJ Pizza, a California Corporation dba Papa John's, No. RG14746807

Date: April 14, 2016

Plaintiff(s):
- Sally Ember (Female, 61 Years)

Plaintiff Attorney(s):
- Jeffrey B. Bohrer; Law Offices of Jeffrey B. Bohrer; Granada Hills CA for Sally Ember

Plaintiff Expert (s):

- Saul Rosenberg Ph.D.; Psychology/Counseling; Corte Madera, CA called by: Jeffrey B. Bohrer
- David Brody M.D.; Neurology; St. Louis, MO called by: Jeffrey B. Bohrer
- Kenneth Nemire Ph.D.; Biomechanics; Campbell, CA called by: Jeffrey B. Bohrer

Defendant(s):

- YJ Pizza

Defense Attorney(s):

- David Wei Chen; Stratman, Patterson & Hunter; Oakland, CA for YJ Pizza

Defendant Expert(s):

- Brad M. Wong P.E.; Accident Reconstruction; Livermore, CA called by: for David Wei Chen
- Arthur P. Kowell M.D., Ph.D.; Neurology; Encino, CA called by: for David Wei Chen

Insurers:

- Farmers Insurance Group of Cos.

Facts:

On April 6, 2014, plaintiff Sally Ember, 61, an author, walked into a Papa John's restaurant, located at 2222 Shattuck Avenue, in Berkeley, to purchase food when she tripped over two canes that belonged to blind customers, and which were left on the ground. Ember fell and allegedly struck her head. She claimed she sustained a brain injury.

Ember sued the operator of Papa John's, YJ Pizza. Ember alleged that YJ Pizza was negligent in failing to maintain a safe environment.

Defense counsel disputed negligence, contending that YJ Pizza followed the proper store-inspection policies. Counsel also argued that Ember tripped and fell because of her own negligence and that of the cane owners.

Injury:

Ember sustained blunt force trauma to her head, allegedly resulting in a concussion and a fractured nose. She was subsequently taken by ambulance to Alta Bates Summit Medical Center, in Oakland, where she underwent minor treatment and was released within 24 hours.

Ember claimed that she suffered a brain injury, resulting in memory issues, word retrieval difficulties, and a change in personality. She also claimed she suffers from post-traumatic stress disorder as a result of the incident. Ember underwent three months of chiropractic care and on-going cognitive therapy. However, she alleged that she continues to have limitations related to her memory issues, including personality changes, depression, difficulty concentrating, and difficulty retrieving words.

Thus, Ember sought recovery of $20,026 in past medical costs and injury-related expenses, such as the cost of a gym membership, house-cleaning services, and taxi cab rides. She also sought recovery of $10,000 to $50,000 in future medical and psychological care costs, and $112,000 in lost income potential as an executive assistant and in losses in the sale of her books due to her inability to market them. In addition, Ember sought recovery of damages for her past and future pain and suffering.

Defense counsel disputed the nature and extent of Ember's alleged injuries, noting that Ember has been able to continue pursuing her writing career despite her alleged head injuries.

Result:

The jury found that YJ Pizza was 40 percent at fault, that Ember was 40 percent at fault and that the non-party blind couple was 20 percent at fault. It also determined that Ember's damages totaled $48,590.50.

After reductions, judgment was entered in the amount of $25,154.30.

Sally Ember

$5,322 Personal Injury: Past Medical Cost

$10,000 Personal Injury: Future Medical Cost

$12,354 Personal Injury: Past Lost Earnings Capability

$15,000 Personal Injury: Past Pain And Suffering

$5,000 Personal Injury: Future Pain And Suffering

$915 Personal Injury: miscellanous expenses

Trial Information:

Judge:	Robert B. Freedman
Demand:	$199,999 (C.C.P. § 998)
Offer:	$35,001 (C.C.P. § 998)
Trial Length:	7 days
Trial Deliberations:	2 days
Jury Vote:	10-2 as to defendant occupying premises, negligence, and substantial factor in causing injury; 12-0 as to past medical expenses; 12-0 as to lost earnings; 10-2 as to future medical expenses; 10-2 as to non-economic damages; and 9-3 as to assignment of fault percentages
Jury Composition:	6 male, 6 female
Post Trial:	Since the defense's C.C.P. § 998 offer was more than the judgment, defense counsel will file a memorandum of costs, which is expected to exceed the judgement award.
Editor's Comment:	This report is based on information that was provided by defense counsel. Plaintiff's counsel did not respond to reporter's calls.
Writer	Christine Barcia

Defense: Video showed cones present prior to customer's fall

Type: Verdict-Defendant

Amount: $0

State: California

Venue: Fresno County

Court: Superior Court of Fresno County, Fresno, CA

Injury Type(s):
- *hip* - labrum, tear (hip)
- *knee* - meniscus, tear
- *hand/finger* - hand
- *surgeries/treatment* - arthroscopy

Case Type:
- *Premises Liability* - Store; Failure to Warn; Dangerous Condition
- *Slips, Trips & Falls* - Slip and Fall

Case Name: Cynthia Wells v. Save Mart Supermarkets, No. 14CECG01206

Date: January 08, 2016

Plaintiff(s):
- Cynthia Wells (Female, 50 Years)

Plaintiff Attorney(s):
- Benjamin P. Tryk; Tryk Law, P.C.; Fresno CA for Cynthia Wells
- John R. Waterman; Waterman Law, P.C.; Fresno CA for Cynthia Wells

Plaintiff Expert (s):
- Michael Gayle Klassen M.D.; Orthopedic Surgery; Monterey, CA called by: Benjamin P. Tryk, John R. Waterman

Defendant(s):
- Save Mart Supermarkets

Defense Attorney(s):
- Eric V. Grijalva; Parker, Kern, Nard & Wenzel; Fresno, CA for Save Mart Supermarkets

Defendant Expert(s):

- H.B. Morgan M.D.; Orthopedic Surgery; Fresno, CA called by: for Eric V. Grijalva
- Michael V. Nicholas; Safety; Upland, CA called by: for Eric V. Grijalva

Facts:

On May 5, 2012, plaintiff Cynthia Wells, an executive director in her 50s who worked at a nonprofit mental health services organization, parked her vehicle in a parking space in front of a Save Market Supermarket, in Fresno. In front of the store were plants for sale that an employee had previously watered. Wells parked in front of the plants and walked about 5 feet to the curb. However, as she stepped up onto the curb, she slipped and fell. Wells claimed injuries to her left hand, left knee, and left hip.

There was video of the incident, though the store's video cameras are positioned in a long range, focusing on the border of the store exit and parking spaces.

Wells sued Save Mart Supermarkets. Wells alleged that the store failed to warn of the wet sidewalk, creating a dangerous condition.

Wells claimed that she slipped on water from the previously watered plants. She also claimed that there were no cones present to warn her that the sidewalk was wet.

Defense counsel contended that about 15 to 20 minutes before Wells' fall, a Save Market Supermarket employee watered the plants in front of the store, causing significant water to form on the sidewalk. However, counsel contended that three cones were in the area at the time the plants were watered and that the employee brought out a squeegee to remove the excess water from the sidewalk. Counsel noted that the video of the incident showed two cones, as the employee moved one of the cones to the side with his foot, causing the cone to be out of the video's angle. Defense counsel further contended that the three cones present at the scene were consistent with the store's policies. Thus, counsel argued that the store did everything possible to make the area safe and comply with the law. Counsel contended that the standard procedure was to set up the cones before the water was even turned on, which the employee did and that the video showed that most customers avoided the water and moved around it.

The defense's safety expert opined that the store met the standard of care and did what was possible and that other possible means of watering were not economically feasible.

In addition, defense counsel questioned Wells' memory of the scene, noting that Wells testified that right after she fell, she warned an elderly female customer behind her to go around the water. However, the video showed no such interaction. Defense counsel also noted that although Wells claimed that her pain was a nine out of 10 immediately after the incident, she got up and went inside the store, did not request medical attention, and continued shopping for 15 to 20 minutes.

Injury: Wells claimed she sustained a meniscal tear of her right knee, a tendon injury to her left thumb, a tear to her left hip's labrum, and pain to her back and neck. She subsequently presented to her regular physician almost two days later. She also sought treatment from an orthopedist and a hand specialist. Wells ultimately underwent arthroscopic surgery on her knee and received injections to the carpometacarpal joint of her left hand.

The plaintiff's family physician testified on Wells' behalf and the plaintiff's orthopedic expert opined that Wells' injuries were caused by the subject fall.

Wells claimed that she went back to work after the incident for a short period of time, but by November 2012, she stopped working and could no longer continue. She also claimed that she could no longer garden or play with her grandchildren and that her activities were limited. Wells further claimed that she is deciding whether to have surgery for her hip.

Thus, Wells sought recovery of $440,000 in total damages.

Defense counsel contended that an MRI taken of Wells' left knee on May 22, 2012 indicated a degenerative signal without a definite tear. Counsel also contended that medical images of the left hand showed osteoarthritis, and no fractures or dislocations. In addition, counsel contended that Wells first complained of left thumb pain three months after the incident and that the labral tear was diagnosed more than three years after the incident. Thus, defense counsel argued that Wells' alleged pain was due to her pre-existing arthritis and not the fall.

The defense's orthopedic expert could not determine what caused Wells' injuries, as the imaging of her knee showed that it was fine after the fall and the meniscal tear was not discovered until before her surgery. However, defense counsel contended that Wells' medical records showed that she had subsequent falls, including one a few months after the accident, and another in December 2012 with a third fall a year or two later.

Result: The jury rendered a defense verdict, finding that the store was not negligent.

Trial Information:

Judge: Alan M. Simpson

Demand: $124,999 (C.C.P. § 998)

Offer: $34,501 (C.C.P. § 998)

Trial Length: 4 days

Trial Deliberations: 40 minutes

Jury Vote:	Unanimous
Jury Composition:	2 physicians, 1 CNA, 1 LVN, 1 nursing assistant, graduate school students
Editor's Comment:	This report is based on information that was provided by defense counsel. Plaintiff's counsel did not respond to the reporter's phone calls.
Writer	Priya Idiculla

Plaintiff fell after grabbing bouncer's shirt, defense argued

Type: Verdict-Defendant

Amount: $0

State: California

Venue: Fresno County

Court: Superior Court of Fresno County, Fresno, CA

Injury Type(s):
- *leg* - fracture, leg; fracture, fibula
- *ankle* - dislocation

Case Type:
- *Intentional Torts* - Assault
- *Slips, Trips & Falls* - Trip and Fall
- *Premises Liability* - Inadequate or Negligent Security

Case Name: Juan Chico Puentes v. Mike Kelly, Cindy Crawford Kelly, Kelly's Beach, and Donald Steven Harold, No. 13CECG03835

Date: September 03, 2015

Plaintiff(s):
- Juan Chico Puentes (Male, 34 Years)

Plaintiff Attorney(s):
- Robert G. Gilmore; Law Office of Robert G. Gilmore; Fresno CA for Juan Chico Puentes

Plaintiff Expert (s):
- Hiram "Bud" Morgan M.D.; Orthopedic Surgery; Fresno, CA called by: Robert G. Gilmore

Defendant(s):
- Mike Kelly
- Kelly's Beach
- Cindy Crawford Kelly
- Donald Steven Harold

Defense Attorney(s):
- Paul R. Hager; Hager, Macy & Jensen; Fresno, CA for Mike Kelly, Cindy Crawford Kelly, Kelly's Beach, Donald Steven Harold

Facts:

On Nov. 1, 2013, plaintiff Juan Puentes, 34, a detail shop owner, attended a Halloween party thrown at Kelly's Beach, a campground area on the Kings River in Reedley, which contains a restaurant, a bar, and a general store. At some point, Puentes was asked to leave the property. He subsequently got into a heated argument with a property owner, Mike Kelly, causing a bouncer for Kelly's Beach to become involved. Puentes ultimately fell to the ground, and he allegedly sustained injuries to his right ankle and leg.

Puentes sued the bouncer, Donald Harold; the property owners, Mike Kelly and Cindy Crawford Kelly; and Kelly's Beach.

Puentes claimed that Mike Kelly failed to control the situation when they were talking with each other and that Harold used excessive force against him. Specifically, Puentes claimed that Harold tackled him, causing him to trip and fall to the ground.

An eyewitness testified on behalf of Puentes, claiming that Harold threw Puentes to the ground. However, defense counsel argued that the eyewitness was Puentes' best friend and later discredited through conflicting testimony.

Defense counsel contended that Puentes was highly intoxicated, with a blood alcohol content of 0.27, and was molesting females at the party by physically touching them in inappropriate places. Counsel contended that as a result, Puentes was asked to leave and was escorted off the property by Harold. However, defense counsel contended that Puentes tried to get back to the party, which is when Harold blocked Puentes' way. Counsel contended that Puentes then grabbed Harold's shirt and yanked it, and that a trip-and-fall ensued.

Injury:

Puentes was picked up at the scene by his mother and taken to Adventist Medical Center - Reedley. At the hospital, it was discovered that he had sustained a dislocated ankle and a fibular fracture. Puentes ultimately underwent a surgical reduction of the fibula bone, and his leg was placed in a splint. He then had a cast placed on his leg.

Puentes claimed that he would suffer future arthritic conditions to his injured ankle and that he may require future surgery. He also claimed his injuries prevented him from working at a detail shop for vehicles and boats. However, he made no wage loss claim, as he had later enrolled as a student for physical therapy.

Thus, Puentes sought recovery of past and future medical costs. He also suggested that his past and future pain and suffering was between $500,000 and $700,000.

Defense counsel denied Puentes' claim that he would be substantially limited in the future and argued that any future fusion Puentes would have to treat his ankle condition would relieve any alleged pain and suffering.

Defense counsel noted that the plaintiff's treating orthopedic surgeon testified that Puentes had suffered prior injuries to his ankle and that Puentes was already arthritic. Counsel also noted that the plaintiff's physician opined that it was not medically certain whether Puentes would require any future surgery.

Result:

The jury rendered a defense verdict. It found that all of the defendants were not negligent.

Trial Information:

Judge:	Kristi Culver Kapetan
Trial Deliberations:	24 minutes
Post Trial:	The defendants waived their recovery of costs in exchange for the plaintiff waiving his option to appeal.
Editor's Comment:	This report is based on information that was provided by defense counsel. Plaintiff's counsel did not respond to the reporter's phone calls.
Writer	Priya Idiculla

Defense: Heavy equipment repair shop not liable for fall

Type: Verdict-Defendant

Amount: $0

State: California

Venue: Shasta County

Court: Superior Court of Shasta County, Redding, CA

Injury Type(s):
- *arm* - biceps muscle, tear

Case Type:
- *Worker/Workplace Negligence* - OSHA
- *Slips, Trips & Falls* - Fall from Height

Case Name: Steven Richards v. Peterson Tractor Co., Jim Lansford and Jim Lanphear, No. SC RD CV-CV-13-0176414-000

Date: May 14, 2015

Plaintiff(s):
- Steven Richards (Male, 59 Years)

Plaintiff Attorney(s):
- Stewart C. Altemus; Altemus & Wagner; Redding CA for Steven Richards

Plaintiff Expert (s):
- John L. Bobis; OSHA/Workplace Safety; Rancho Cordova, CA called by: Stewart C. Altemus
- Charles R. Mahla Ph.D.; Economics; Los Angeles, CA called by: Stewart C. Altemus

Defendant(s):
- Jim Lanphear
- Peterson Tractor Co.

Defense Attorney(s):
- Mark A. Goodman; Law Office of Mark A. Goodman; Oakland, CA for Peterson Tractor Co., Jim Lanphear

Defendant Expert(s):

- Gerald R. Fulghum C.S.P.; Safety; Sacramento, CA called by: for Mark A. Goodman
- Joseph W. McCoy M.D.; Orthopedic Surgery; Napa, CA called by: for Mark A. Goodman

Insurers:

- ACE Group of Cos.

Facts:

On Jan. 17, 2011, plaintiff Steven Richards, 59, a self-employed heavy equipment appraiser/estimator, was at a store and repair facility owned by Peterson Tractor Co. in order to inspect damage to the engine of an excavator. As part of his inspection for an insurance company, Richards climbed up to the machine engine compartment to take photographs of the damage. However, he lost his balance while standing on the excavator tracks, which was located approximately 36 inches above the ground. Richards, who weighed approximately 300 pounds, was supported by Jim Lanphear, the shop manager who was behind him, until Richards was able to right himself and continue to climb onto the excavator deck to photograph the engine damage. However, Richards claimed he hyperextended his left arm when he grabbed onto the grab bar of the excavator when he lost his balance.

Richards sued the owner of the facility, Peterson Tractor Co., and the Peterson shop manager, Jim Lanphear (who was erroneously sued as Jim Lansford).

Richards claimed that after he finished photographing the engine damage, Lanphear directed him to stay on the deck of the excavator while Lanphear went to retrieve a platform ladder for him to use to get off the machine.

Plaintiff's counsel contended that Peterson was negligent, and violated both Labor Code and California's Occupational Safety and Health Act regulations, which required fall protection to workers working at elevations in excess of 4-feet above the ground. The plaintiff's safety expert opined that Peterson was required to provide fall protection to Richards through various means and that the excavator was not safe to climb on by anyone without using fall protection, including the use of a safety harness and guardrails.

Peterson contended that it initially offered Richards a step bench to access the track, but that Richards declined the offer. However, it denied furnishing Richards with a platform ladder to get off the machine. It also denied that Richards was holding onto the grab bar at the time he lost his balance.

The defense's OSHA expert opined that California Code of Regulations Title 8, Section 3210, subpart (b)(9) provides an exception to the fall protection requirements for mobile equipment when working above 4-feet and that the footholds and handholds on the excavator were safe and adequate for climbing up and down the machine.

Injury: Richards claimed he hyperextended his left, non-dominant arm when he lost his balance. Within a day or two after the incident, Richards presented to the Veteran's Administration Clinic, where he was diagnosed with a torn distal biceps tendon in his left arm. Several weeks later, he underwent repair surgery for the tear.

Richards was self-employed as a heavy equipment appraiser and estimator for 30 years prior to the injury. Though he continued to work in California, he claimed he lost the ability to adjust hurricane property damage claims out of state. The plaintiff's economics expert subsequently opined that Richards lost income in the amount of approximately $80,000.

The defense's orthopedic expert opined that Richards could have adjusted the hurricane losses after his recovery from the surgical repair of his torn biceps.

Result: The jury found that Peterson was not negligent, and rendered a defense verdict.

Trial Information:

Judge: Stephen H. Baker

Demand: $74,999.99 (C.C.P. § 998)

Offer: $30,000 (C.C.P. § 998)

Trial Length: 10 days

Trial Deliberations: 30 minutes

Jury Vote: 10-2

Jury Composition: 1 male, 11 female

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

Writer Priya Idiculla

VerdictSearch

Store claimed sweep logs showed it properly inspected floors

Type: Verdict-Defendant

Amount: $0

State: California

Venue: San Francisco County

Court: Superior Court of San Francisco County, San Francisco, CA

Injury Type(s):
- *neck* - fusion, cervical; cervical disc injury; herniated disc, cervical; herniated disc at C3-4; herniated disc, cervical; herniated disc at C4-5; herniated disc, cervical; herniated disc at C5-6
- *other* - aggravation of pre-existing condition

Case Type:
- *Slips, Trips & Falls* - Slip and Fall
- *Premises Liability* - Dangerous Condition; Negligent Repair and/or Maintenance

Case Name: Latrelle Gaddies v. Safeway Inc., and Does 1 to 25, No. CGC-13-533920

Date: March 16, 2015

Plaintiff(s):
- Latrelle Gaddies (Female, 53 Years)

Plaintiff Attorney(s):
- Daniel Slijepcevich; Kuvara Law Firm; San Rafael CA for Latrelle Gaddies

Defendant(s):
- Safeway Inc.

Defense Attorney(s):
- David J. Streza; Vogl Meredith Burke LLP; San Francisco, CA for Safeway Inc.

Defendant Expert(s):
- Dan Girvan M.S., P.E.; Accident Reconstruction; Hayward, CA called by: for David J. Streza
- Bruce M. McCormack M.D.; Neurosurgery; San Francisco, CA called by: for David J. Streza

Facts:

On Aug. 13, 2013, at around noon, plaintiff Latrelle Gaddies, 53, an in-home healthcare provider, slipped and fell after using the restroom in a Safeway store on King Street in San Francisco. She claimed she fell backward, striking her neck and back against the wall.

Gaddies sued Safeway Inc., alleging that Safeway's negligent repair and/or maintenance of the bathroom created a dangerous condition.

Gaddies claimed she slipped on water that was on the floor, causing her to fall backward and striking her neck and back against the wall.

Plaintiff's counsel presented evidence showing that there were several puddles of water on the floor at the time of the incident. Counsel noted that one photo taken by Gaddies' fiancé showed a plunger on the floor of the restroom stall. Thus, plaintiff's counsel argued that Safeway was liable for allowing puddles of water to accumulate on the restroom floor.

Defense counsel presented sweep logs, which showed that Safeway regularly inspected the floors in the subject store, including the restroom where the alleged incident occurred. Thus, counsel argued that Safeway was not liable for the incident.

Injury:

After the fall, Gaddies was taken to the University of California, San Francisco Medical Center, in San Francisco, where immediate surgical intervention was recommended. She suffered herniated cervical discs at the C3-4, C4-5 and C5-6 levels. Gaddies eventually underwent surgery on Aug. 27, 2013, during which a three-level cervical fusion was performed.

Gaddies claimed that despite her prior treatment for neck pain complaints in 2009, she was not symptomatic before the fall at Safeway. Thus, she claimed that the fall aggravated her neck complaints.

Defense counsel argued that Gaddies was not significantly injured as a result of the incident. Evidence showed that Gaddies had received prior treatment for neck complaints and even had an MRI in 2009, which showed cervical stenosis and myomalacia. Thus, defense counsel argued that the fall did not cause any acute trauma.

Result:

The jury found that Safeway did not do anything that would have caused or contributed to the incident. It also found that the sweep logs confirmed that Safeway was diligent in inspecting the floors. Thus, the jury rendered a defense verdict.

Trial Information:

Judge: Richard B. Ulmer, Jr.

Demand: $37,500

Offer: $2,500

Trial Length:	4 days
Trial Deliberations:	50 minutes
Jury Vote:	11-1
Jury Composition:	6 male, 6 female
Editor's Comment:	This report is based on information that was provided by defense counsel. Plaintiff's counsel did not respond to the reporter's phone calls.
Writer	Priya Idiculla

Defense claimed garage doorway threshold had no code violations

Type: Verdict-Defendant

Amount: $0

State: California

Venue: Placer County

Court: Superior Court of Placer County, Placer, CA

Injury Type(s):
- *hand/finger* - hand
- *neurological* - reflex sympathetic dystrophy; complex regional pain syndrome

Case Type:
- *Premises Liability* - Residence; Dangerous Condition; Negligent Repair and/or Maintenance
- *Slips, Trips & Falls* - Trip and Fall

Case Name: Judy Howarth v. David Mortensen and Kendra Mortensen, No. SCV0033341

Date: February 05, 2015

Plaintiff(s):
- Judy Howarth (Female, 52 Years)

Plaintiff Attorney(s):
- S. David Rosenthal; Rosenthal & Kreeger, LLP; Roseville CA for Judy Howarth

Plaintiff Expert (s):
- A. Reza Ehyai M.D.; Neurology; Sacramento, CA called by: S. David Rosenthal
- Robert L. Cameto M.D.; Orthopedic Surgery; Carmichael, CA called by: S. David Rosenthal
- Charles R. Mahla Ph.D.; Economics; Los Angeles, CA called by: S. David Rosenthal
- Timothy R. Sells M.A.; Life Care Planning; Sacramento, CA called by: S. David Rosenthal
- William R. Neuman P.E.; Civil; Sacramento, CA called by: S. David Rosenthal

Defendant(s):

- David Mortensen
- Kendra Mortensen

Defense Attorney(s):

- Patrea R. Bullock; Law Office of David A. Wallis; Sacramento, CA for David Mortensen, Kendra Mortensen

Defendant Expert(s):

- Dean H. Ahlberg P.E.; Safety; Vallejo, CA called by: for Patrea R. Bullock
- Eric M. Gershwin M.D.; Rheumatology; Davis, CA called by: for Patrea R. Bullock

Insurers:

- Nationwide Mutual Insurance Co.

Facts:

On Sept. 7, 2012, plaintiff Judy Howarth, 52, a customer service employee for a UPS store, was at the residence of David Mortensen, in Penryn, to help set up for the wedding of her son the following day. (Howarth's niece from a former marriage was Mortensen's wife.) As Howarth walked through the doorway of a 3,300-square-foot garage, she tripped on the thin, metal threshold that stuck out from the bottom of the doorway into a patio area. Howarth fell on her right hand, allegedly injuring it.

Howarth sued David and Kendra Mortensen. Howarth alleged that Mr. Mortensen was negligent in the construction of the garage and doorway. She also alleged that both Mr. and Mrs. Mortensen, as the properly owners were negligent for failing to repair the threshold, creating a dangerous condition.

Howarth claimed that as she walked through the garage doorway, her foot got stuck underneath the lip of the threshold, causing her to hook her foot and land on her right hand.

Plaintiff's counsel contended that Mr. Mortensen acted as an owner-builder in the construction of the garage on his property and that as part of the construction, Mr. Mortensen had a subcontractor install a pre-fabricated door purchased from a construction supply store. Counsel contended that once installed, a thin metal threshold stuck out from the bottom of the doorway, into the patio area, by approximately 1.5-inches. Thus, plaintiff's counsel argued that the threshold was not built to minimum construction standards, was a code violation, and constituted a dangerous tripping hazard.

Plaintiff's counsel noted that Mr. Mortensen testified that that he was aware of the threshold sticking out from the doorway and that he took responsibility for the workmanship of the garage construction. However, defense counsel noted that Mr. Mortensen claimed that he felt that any unsafe condition would have been pointed out by Placer County upon inspection.

Mr. Mortensen's mother-in-law testified to witnessing the accident and claimed that Howarth was looking back at the bride and yelling when she tripped over the threshold.

The defense's engineering safety expert testified that the two-year-old garage was built with permits and licensed contractors and that the door was properly installed, with no code violations.

Injury:

Howarth claimed that when she got off the cement after the fall, she noticed that the fingers of her right, dominant hand were bent awkwardly backward and that she had to manipulate them back into place. As a result, she immediately went to an emergency room, were she was diagnosed with was a badly sprained right hand. Her hand was subsequently placed in a splint and Howarth was told that her hand would heal over time. However, she claimed that despite extensive therapy, the hand remained extremely stiff, swollen, and sensitive to the touch several months after the injury.

The plaintiff's treating physicians, a board certified orthopedic surgeon and a board certified neurologist, testified that Howarth's right hand had developed complex regional pain syndrome, also known as reflex sympathetic dystrophy or causalgia, a chronic pain condition. The physicians also opined that Howarth had regained some range of motion in her right hand's four fingers after physical therapy, but that Howarth would likely have pain and limitation in the hand for the rest of her life.

Howarth claimed pain medications did not help her. Thus, she sought recovery of more than $400,000 in total damages for her future medical expenses, past and future lost income, and past and future pain and suffering.

Defense counsel disputed Howarth's claims of ongoing pain and never being able to return to work.

The defense's rheumatology expert testified about Howarth's sprained hand and opined that Howarth only suffers from "cry for help" syndrome.

In response, plaintiff's counsel contended that the defense's medical expert claimed to be a "world-renowned" expert on CRPS, but admitted on the stand to writing only one paper on the topic that critiqued the work of other researchers. Plaintiff's counsel also contended that the defense's medical expert admitted that the records and his exam showed that Howarth had a painful, swollen, hypersensitive and stiff hand.

Result:

The jury found there no negligence on the part of the Mortensens. Thus, it rendered a defense verdict.

Trial Information:

Judge: Colleen M. Nichols

Demand: $39,500 (C.C.P. § 998)

Offer: $1,000 (C.C.P. § 998)

Trial Length: 6 days

Trial Deliberations:	45 minutes
Jury Vote:	11-1
Post Trial:	Defense counsel is filing a post-C.C.P. § 998 cost bill for $42,347.10. Plaintiff's counsel is moving to tax costs, and the motion is set to be heard on April 22, 2015.
Editor's Comment:	This report is based on information that was provided by plaintiff's and defense counsel.
Writer	Priya Idiculla