

XIV/29-2 FALLDOWN EMS WORKER FALLS ON CRACKED MARBLE STAIRS WHILE RESPONDING TO CALL TORN MENISCUS

Anthony Miranda v. 18 Bowery Realty Corp. 131402/94 1-week trial Verdict 1/14/97 Judge Sheila Abdus-Salaam, New York Supreme

VERDICT: \$784,200 (6/0). Breakdown: \$35,000 for past pain and suffering; \$7,700 for past medical expenses; \$14,000 for past lost earnings; \$277,500 for future pain and suffering (37 years); \$75,000 for future medical expenses (37 years); \$375,000 for future lost earnings (12.5 years). Post-trial motions were denied. Jury: 4 male, 2 female.

Pltf. Atty: Richard N. **Slater** of Cardali & Cardali, P.C., Manhattan  
Def. Atty: Lawrence Roe, of counsel to Isabella Natale, Mineola

Facts: On 12/17/93, Pltf., a 35-year-old EMS worker at the time, was answering a call at a building owned by Def. at 122 Forsyth St. in Manhattan. Pltf. testified that he and his partner were carrying an ill person down the marble stairs on a chair. Pltf.'s partner was backing down the stairs and Pltf. was holding the chair at the top. Pltf. claimed that when he was one step from the bottom, the step gave out, causing him to fall. Pltf. produced photographs showing what he contended were stress cracks on a number of the stairs. Pltf.'s expert testified that the cracks appeared to be months old.

The president of Def. corporation testified that his company bought the building 8 months before this accident. He admitted that he had seen cracks on the stairway, but could not remember if the step in question was cracked. At his deposition, he acknowledged that cracks in stairs would warrant a repair. At trial, however, he testified that the step would be fixed only if it was loose or noisy.

Injuries: torn medial meniscus requiring arthroscopic surgery; traumatic arthritis in the knee. The Workers Compensation board physician testified that Pltf. has a permanent injury involving a 17½% loss of use. Pltf. returned to work after 9 months. He produced testimony that he will have a shortened work-life expectancy. Demonstrative evidence: photographs; X-rays; MRIs; EMS report; Workers Compensation physician's report as past recollection recorded. Offer: \$75,000; demand: \$200,000. Jury deliberation: 3½ hours. Carrier: Empire. Pltf. Experts: Dr. Lester Lieberman, treating orth. surg., Manhattan; Dr. Nadareh Nirou, examining Workers Compensation board physician, Manhattan. Def. Expert: Dr. Lawrence Miller, osteopath, New Jersey.