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Gonzales v. Jonic Glass and Crandell Glass & Aluminum

3/24/2022- Judge KELLIE JOHNSON
- C2019-5835 -GONZALES (Thomas Cotter and Timothy Stackhouse of Miller, Pitt, Feldman & McAnally, P.C.) v. JONIC GLASS and CRANDELL GLASS & ALUMINUM (Douglas Glasson of Curl, Glasson & Patrascioiu). Case being tried on LIABILITY & DAMAGES. Plntf, female, age 30, working as a waitress at Cheesecake Factory, alleged that on November 23, 2018, during her work shift, she was using a door at the Cheesecake Factory, when the cover of an automatic door opener fell off and hit her on the head. The automatic door opener kit was installed by Dfnt Crandell Glass & Aluminum as subcontracted by Dfnt Jonic Glass. Plntf is claiming Traumatic Brain Injury (TBI), Neck/Arm/Back Pain, Disc Herniation, TMJ, Depression, Anxiety, and Inability to work due to the effects of the incident. Before the trial began, Jonic Glass was dismissed from the case. Plntf relied on the doctrine of Res Ipsa Loquitar and that the cover was under exclusive control of Dfnt at the relevant time.

Day 1: Plntf called the installer of the automatic door cover, who described how he only used one endcap. He was

not certified at the time of the inspection and did not know if the installation was inspected.

Day 2: Plntf took the stand and was cross examined by Dfnt. Plntf explained that when the incident happened, she felt like a log hit the top of her head and she got scrunched down, she felt like she was in a vise that got continuously tighter, she was upset with the neurologists who treated her, because they told her she could go back to work.

Day 3: Plntf called treating doctor, Dr. Mortazavi who runs the Concussion Clinic. He opined that Plntf would need a cervical surgery. Afterwards, Plntf called Dr. Dumont, who was both a treating neurosurgeon and an expert witness. Dr. Dumont opined that Plntf previous accidents could have caused her disc problems and Plntf does not need surgery. Plntf then called Vocation Rehab Expert, Gretchen Bakkenson, who calculated Plntf's past and future wage loss as \$673,640, Plntf also called economist, Michael Stokes, Ph.D. who used the consumer price index to calculate Plntf's present value wage loss as \$647,004.

Day 4: Plntf called a character witness who described Plntf's physical, mental

and emotional changes that occurred after the alleged incident. The witness knew Plntf was suffering and in great pain physically, mentally, and emotionally. Plntf then called Dfnt Aaron Crandell, the owner of Crandell Glass & Aluminum, who is also a glazier. Dfnt relayed that the installer was qualified to install the closer and cover by himself; that he completed an inspection of the opener a week later; and that the previous opener had been tampered with. Plntf lastly called the manager of the Cheesecake Factory, who recovered the cover after the incident, and it did not have blood on it. Plntf rested.

Day 5: Dfnt began their case with an expert Mechanical/Materials Failure Engineer, Darko Babic, who investigated the likelihood of the cover falling as described by Plntf. Dfnt then called Biomechanical Engineer, Johan Ivarsson, who testified that under the worst-case scenario the Plntf had less than a 1% chance of suffering a concussion. Dfnt then called Neurologist Fritz Strobl, M.D. as an expert, who opined that Plntf suffered a mild, uncomplicated head trauma and reached her maximum medical improvement within a few weeks after the incident.

Day 6: Dfnt's last witness was Neuropsychologist Shannah Biggan, Ph.D. who relayed her opinion that

Plntf suffered no permanent cognition problems, and that Plntf's preexisting depression and mood disorder interfered with her ability to return to her pre-accident condition.

Plntf's closing argument included how the Cheesecake Factory did their own investigation, that Dfnt's experts did not conduct proper experiments to recreate the incident, and that the installers did not properly install the cover. Plntf claimed that the past and future medical expenses totaled \$145,276, the lost wages totaled \$262,611, pain & suffering were valued at \$240,000, for the total damages equating to \$657,887.

Dfnt's closing argument included that Plntf was not seriously injured physically, Plntf did not prove that Dfnts did anything wrong and did not have evidence. Dfnt relayed that Plntf did not have any experts to rebut Dfnt's engineers or mental health experts, and that Plntf had not met the burden of proof. Plntf's pre-trial demand was \$164,000. Dfnt's pre-trial offer was \$100,000.

After 2 days of Jury Deliberation, the jury returned a DEFENSE VERDICT, the vote was 7-1.