

Tenant Recovers \$600,000 On Negligent Security Claim - Premises Liability - Female Assaulted In Apartment - Break- In Through Window - Inadequate Security - PTSD - \$600,000 Settlement

by admin

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Type of Action: Inadequate security

Injuries Alleged: Post-traumatic stress disorder

Name of Case: Withheld upon request

Court/County: Withheld upon request

Case No.: Withheld upon request

Tried Before: Mediation

Name of Judge: Not assigned

Special Damages: \$38,000 — medical/psychological expenses; \$30,000 — loss of earnings

Verdict/Settlement: Settlement

Amount: \$600,000

Verdict or Settlement Date: October 1, 2003

Demand: n/a

Offer: n/a

Experts: William Booth, Risk Management Consultants, Raleigh; Dr. Robert Grossman, New York City, NY; Dr. Allan Chrisman, Durham

Insurer: Withheld upon request

Plaintiff's Attorney: Robert B. Glenn, Jr., Stewart W. Fisher, and Carlos E. Mahoney, Durham

Person Submitting: Carlos E. Mahoney

Description: The female plaintiff's apartment was broken into through a first-floor window at 2:00 in the morning. She was held at knife-point for two hours during which she was robbed, physically assaulted, sexually assaulted, and threatened with rape and murder by the male intruder. The plaintiff eventually broke free from the intruder and called 911. The police arrested the intruder and he subsequently plead guilty to second degree kidnapping, first degree burglary, two counts of robbery with a dangerous weapon, and assault with a deadly weapon on a government official.

Negligence claims were asserted against the owner and manager of the apartment complex for inadequate security. The plaintiff compiled 91 instances of similar crimes within a one-mile radius of the property during the two years preceding the attack on the plaintiff. The majority of the crimes occurred within a one block radius of the apartment complex.

The plaintiff had complained to the management company about the condition of her first-floor windows one month before the criminal attack. Employees of the management company were the last people to secure the window through which the intruder accessed the apartment. There was no evidence of forced entry into the apartment.

The plaintiff alleged that the defendants failed to properly secure the window, failed to warn her of the un-secured window, failed to institute and maintain adequate means of security for the protection of the tenants, failed to provide adequate windows, and, failed to provide adequate lighting. The defense countered that the criminal act was not foreseeable, and that the plaintiff was contributorily negligent by not inspecting her windows. The plaintiff presented her case at mediation by a video presentation of the key factual and expert witnesses, along with important liability evidence. Mediation impressed so that the adjuster could obtain greater settlement authority. The case was resolved a few weeks later after the insurance company's home office reviewed the plaintiff's video presentation. Twenty-seven depositions were taken before settlement.