
Cochise County Superior Court Jury Trials

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6/25/10 - Judge JAMES L. CONLOGUE - CV 2007-00279 - HAGER (Joel P. Borowiec of Borowiec, Borowiec & Russell, P.C.) v MOUNTAIN VISTA INVESTORS, L.L.C., dba MOUNTAIN VISTA APARTMENTS (Douglas W. Glasson of Barassi, Curl & Abraham, P.L.C.) - PERSONAL INJURY - PREMISES LIABILITY - FALL - STAIRS - NEGLIGENCE MAINTENANCE/REPAIR. Plntf, male, age 52, a jail commander, was a tenant at Dfnt apartment complex. Plntf alleged that, while descending a stairway at Dfnt apartment complex, a step broke, causing Plntf to fall. Plntf also alleged Dfnt had been replacing concrete stair treads to the second floor of the apartment complex at a rate of ten to twelve treads per month for over seven years. Additionally, Plntf alleged Dfnt knew of the dangerous condition, but failed to warn tenants. Dfnt denied liability, advancing the defense that it was not aware of any unreasonably dangerous condition. Dfnt argued it used reasonable care to keep the premises in a reasonably safe condition. Dfnt also argued it inspected the complex's steps and replaced any steps that had hairline cracks. Plntf alleged he sustained a torn medial meniscus of the left knee, which required surgical repair; plus a torn rotator cuff of the right shoulder, which also required surgical repair. Plntf used the videotape deposition of his treating physician, William C. McCormick, D.O., an orthopod, who was of the opinion that Plntf's injuries were causally related. Plntf also called Eric Randolph Soo Hoo, M.D., an occupational medicine specialist, who conducted an independent medical examination. It was Dr. Soo Hoo's opinion Plntf has a twelve percent permanent impairment of the whole person. Dfnt argued Plntf's complaints were related to his preexistent knee and shoulder conditions. Dfnt called Jon T. Abbott, M.D.,

an orthopod, who performed an independent medical examination. Dr. Abbott concurred that Plntf's knee injury was causally related, but was of the opinion that Plntf's shoulder injury was unrelated to the fall. It was also Dr. Abbott's opinion that, at most, Plntf had a five percent permanent impairment of the whole person. Prayer: Just and reasonable compensatory damages; plus \$33,000 (per P) or \$33,922.72 (per D) medical expenses. Plntf made a \$194,000 pretrial offer of judgment (per D) - Dfnt offered \$34,000 (per P) or Dfnt made a \$30,000 offer of judgment (per D) (P & D). (Carrier: State Farm Insurance.) During closing arguments, Plntf's counsel asked jury to award Plntf \$400,000. Defense counsel argued liability. In the alternate, defense counsel suggested \$20,000 was adequate compensation. Four day trial. Jury out fifty minutes. FOUND FOR DFNT. 6 - 2.

