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# Pinal County Superior Court Jury Trials

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THE TRIAL REPORTER of Southern Arizona

July, 2015

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7/17/15 - Judge LAWRENCE M. WHARTON - CV 2013-02844 - GALLOWAY (James R. Page, a sole practitioner) v BARKSDALE (Douglas W. Glasson of Curl & Glasson, P.L.C.) - PERSONAL INJURY - PREMISES LIABILITY - TRIP AND FALL. Plntf, female, age 56, a homemaker, alleged non-party Sheriff's deputies, who were called to Dfnt's residence at night, in response to a call for medical aid, were unable to obtain access to Dfnt's residence. Plntf also alleged non-party deputies requested Plntf, who resided next door, show them where Dfnt's bedroom was located. Additionally, Plntf alleged that, while walking on Dfnt's property, she tripped and fell over a piece of rebar that was sticking out of the ground. Plntf also alleged Dfnt knew of the hazard, but failed to remedy the dangerous condition. Dfnt, female, age 82, who did not appear at trial, denied liability, advancing the defense that the condition was open and obvious. Dfnt, who now suffers from dementia, argued Plntf did not see the rebar on the corner of a flower bed in Dfnt's side yard because it was dark outside and she did not have a flashlight. Dfnt also argued that the piece of rebar, which extended approximately one foot out of the ground, had been placed

into the ground approximately twelve to thirteen years prior to the instant incident so that she could route her hose around the rebar and the hose would not go into the flower bed. Additionally, Dfnt argued that the first responders did not have any interaction with Plntf or were unaware of anyone who had fallen. Dfnt alleged Plntf was guilty of trespass. Plntf sustained a fractured right wrist, which required open reduction, with implantation of internal fixation devices. Plntf alleged she has residual pain, loss of range of motion, "trigger finger", and lifting restrictions. Plntf used the videotape deposition of her treating physician, Steven A. Shapiro, M.D., an orthoped. Plntf also used the deposition of Thomas E. Butler, M.D., an orthoped. Prayer: Just and reasonable compensatory damages; plus \$38,197 medical expenses. Plntf made a pretrial demand for policy limits of \$100,000 - Dfnt made a \$25,000 offer of judgment. (Carrier: State Farm Insurance.) Four day trial. Jury out two-plus hours. FOUND FOR DFNT. 6 - 2. (Post-trial, Court awarded Dfnt \$4,317.55 for taxable costs, \$1,054.27 in double costs, and \$1,159.16 for jury fees.)

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