

Berger vs. The Biltmore Hotel

Case No. C 689-665

Verdict Date: January 10, 1990

TOPIC: Premises Liability

RESULT: \$410,599 Gross, (verdict); \$399,724 Net - The case was settled for this amount with a waiver of any and all costs

SPECIALS: \$20,188 Medical; \$50,000 Future Medical; \$8,177 Loss of Earnings; \$121,815 Future Loss of Earnings.

INJURY: (Initial) severe ankle sprain resulting in reflex sympathetic dystrophy. (Subsequent injury: Fractured right hip with post-knowles pins.)

AREA: Los Angeles, CA

JUDGE: Hon. Robert Mallano

PLAINTIFF ATTORNEY: George Knopfler, Richard A. Capella (Negele, Knopfler, Pierson & Robertson), Universal City

DEFENDANT ATTORNEY: Thomas D. Murphy (Wiedner, Swanson & Paul), Universal City

FACTS: On 6/28/87, the Plaintiff, a 56 year old administrative secretary from Maine, was a guest at The Biltmore. She tripped and fell in the hotel when she failed to see an unmarked step and suffered a badly sprained ankle. Plaintiff returned to Maine. On 9/18/87 she was still on crutches from her ankle injury when she placed the tip of her right crutch on a scatter rug and it slipped causing Plaintiff to fall. She fractured her right hip.

PLAINTIFF CLAIMED that there were 5 prior accidents at the same location. Yet the Defendant failed to warn or repair the dangerous condition. Defendants were liable for the subsequent accident because it was a normal consequence of her impaired condition. It would not have occurred if she hadn't been on crutches.

DEFENDANT ARGUED Plaintiff was the sole cause of her own original accident. The hotel did place a hand rail at the place where Plaintiff fell which was sufficient warning to all patrons of the step. The second injury was a direct and proximate result of Plaintiff's prior inattentiveness on her 6/18/87 accident.

OFFER: \$95,000 (structured) at trial **DEMAND:** \$125,000 at trial

TRIAL TIME: 4 days **JURY TIME:** 2 days **POLL:** No poll

Verdictum Juris No. 90-4A