

Grocery Store Errs On Safety

At approximately midnight on Oct. 31, 1998, Annette Salem entered a Winn-Dixie store in Greenacres City through an automatic sliding door at the west entrance. Ms. Salem was familiar with the entrance as she had been a frequent patron of the store. As she entered the store, her left foot came in contact with a rolled-up floor mat. The mat was lying across the exit doorway and partially extended into the walkway for pedestrians entering the store.

When Ms. Salem's left foot caught the edge of the mat, she fell forward and onto her left side. She tried to break her fall by extending her hands. After the fall, she was unable to stand due to excruciating pain in her left hip. An employee of the store came to her aid, and Ms. Salem recalls hearing a remark made by one of the employees to another that "he knew that those doors should have been locked." The employee called 911 and attended to Ms. Salem until the paramedics arrived.

Greenacres City Fire Rescue personnel responded to the scene and Ms. Salem was admitted to Wellington Regional Medical Center. She was found to have sustained a displaced fracture of the left femoral neck. She was admitted to the surgical floor, placed in a Bucks Traction Device, and administered pain medication. Surgery was performed the following day, which included the insertion of three cannulated screws to stabilize the fracture site.

In addition to treatment for her hip, Ms. Salem had a CT Scan of her left wrist. It revealed a transverse, separated and displaced fracture of the scaphoid which also required surgery. The operative report documents the use of traction, counter-traction, and fluoroscopic control to repair the fracture, which was also stabilized by inserting a screw.

After considerable effort to resolve Ms. Salem's claim informally, suit was filed and discovery began. The first deposition was taken of Employee #1. He had been the maintenance man at Winn-Dixie for eight years during the hours of midnight until 6:00 a.m. He testified that there was no safety instruction relative to how to keep the store clean or how to position things to ensure customer safety, but added that it would be dangerous to have the doors open when people were cleaning and moving rugs. He also testified that there is a button which shuts down the automatic sensing device which triggers the opening of the front door whenever a customer approaches. Unfortunately, he said the button to shut down the automatic system had not been pushed. Employee #1 admitted they made a mistake by not locking the door. The employee also admitted that there were no warnings which would have advised Ms. Salem of the dangerous nature of the store premises.

Another deposition was taken of Employee #2. The employee was not an eyewitness, but did say that Employee #1 should have used safety cones to mark off the door

where work was being done. Employee #2, in turn, put responsibility for keeping the door closed on Employee #1.

Despite the damaging testimony from its employees, Winn-Dixie continued a vigorous defense of Ms. Salem's claim. Attorney Greg Barnhart finally resolved the case at a second mediation, just prior to trial, for \$400,000. A portion of the proceeds were structured in the form of an annuity to provide continuous care for Ms. Salem's medical needs and to reimburse her for her lost earning capacity. ■



Decisions...Decisions...Decisions...