

\$1.2 million settlement for painful injuries to couple caused by mall's failure to maintain escalator

In November 2008, John and Tammy Thompson took their seven-year-old daughter, Shelby, to the Tallahassee Mall, in Tallahassee, Florida, to see a movie. Following the movie, the family decided to do some shopping on the second floor of the mall. John stepped onto the mall's escalator first, followed by Shelby and then Tammy, each holding on to the handrail and standing on the steps as it moved. About two-thirds of the way up to the second floor level, the moving handrail suddenly stopped. At the same time, the steps of the escalator lurched forward. The sudden change caused each of them to pitch backwards. John fell to the bottom of the escalator near the first floor level. Tammy fell down but held onto the frozen handrail with one arm and tried to break her husband's fall with her other arm. Both Thompsons suffered multiple contusions and abrasions. They were taken to the emergency room of a local hospital, examined, and released. Thankfully, Shelby suffered no injuries.

For a long time after the accident, both John and Tammy remained in significant pain.

John continued to experience pain in his lower back and suffered through numerous injections in efforts to find relief. Tammy suffered a tear of the labrum in her right shoulder and, in January 2009, underwent surgery for repair of her shoulder. The surgery was successful and, following physical therapy, she recovered from her injuries. John was not so fortunate. Further examination revealed a lumbar disc herniation. After months of physical therapy and prescription pain and anti-inflammatory medications, doctors recommended that John

have surgery to relieve the pressure on the nerve by removing some disc material and bone at the site of the injury. Months after this surgery, with no significant relief from his pain, John endured a second surgery to implant a spinal stimulator that would electronically interrupt the pain signals and provide relief.

Seeking to hold the Tallahassee Mall accountable for the escalator accident and resulting injuries to the family, the Thompsons asked SDSBS attorney **Cameron Kennedy** to represent them. The mall owners denied liability for the escalator malfunction, and pointed blame toward the company who installed and maintained the equipment. With the owners and contractor unwilling to accept responsibility and pointing fingers at each other, Mr. Kennedy filed a lawsuit against the mall owners, the escalator maintenance contractor, the property management company, and the janitorial contractor. The extensive discovery process revealed a total lack of concern and responsibility for the safety of mall visitors. One year before the incident, an industry engineer had inspected the escalator and recommended complete removal and replacement, noting that the equipment was well beyond its recommended useful life and that it would not pass an annual state inspection. Months before the incident, similar malfunctions had been noted in maintenance records, but nothing had been done. The owners and contractors had failed to comply with mandatory safety inspections that would have revealed code violations. Improper cleaning and maintenance of the equipment only compounded the problem. Only weeks away from trial, all defendants agreed to settle the case for \$1.2 million. ♦

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