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Premises Liability

Detective accidentally shot self, blamed fall in 'faulty' chair

Verdict: (P) \$4,548,000.00

Case Type: Negligent Repair and/or Maintenance, Government - Municipalities

Case Name: Anderson Alexander v. City of New York, No. 16265/02

Venue: Kings Supreme, NY

Judge: Arthur Schack

Date: 11-18-2008

Plaintiff(s):

Attorney(s):

Matthew J. Maiorana; Queller, Fisher, Washor, Fuchs & Kool, LLP; New York, NY, for Anderson Alexander

Expert(s):

Dr. Ram Wadhwa; Orthopedic Surgery; Brooklyn, NY called by: Matthew Maiorana

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Conrad Berensen; Economics; Woodbury, NY called by: Matthew Maiorana

Defendant(s):

Attorney(s):

Jonathan D. Klein; Assistant Corporation Counsel, Michael A. Cardozo, Corporation Counsel; Brooklyn, NY, for City of New York

Expert(s):

Peter Stavropoulos; Vocational Rehabilitation; Brooklyn, NY called by: Jonathan Klein

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Facts:

On Jan. 1, 2002, plaintiff Anderson Alexander, 43, a police detective, entered the headquarters of the New York City Police Department's 73rd precinct, which is located in Brooklyn. While Alexander was waiting for his partners, another detective asked Alexander to hold a firearm, so the detective could interrogate a suspect. Alexander took the firearm, leaned back in his chair and attempted to place the weapon in his waistband. The gun discharged, and Alexander sustained an injury of a knee. Alexander claimed that the chair failed to support him and that, as a result, he fell backward. He contended that the gun accidentally discharged while he was attempting to grab the chair's arms.

Alexander sued the premises' owner, the city of New York. He alleged that the city was negligent in its maintenance of the premises.

Alexander's counsel claimed that the chair and several others were old and in poor condition. He presented another one of the precinct's detectives, who contended that he too had fallen from a chair in the office when he leaned back and the chair's back did not hold him. Alexander's counsel also contended that it was common practice for police detectives to place firearms in their waistbands. A defense witness agreed.

Defense counsel did not produce the chair for the trial, though a request for it to be preserved had been made.

Defense counsel contended that Alexander's counsel failed to prove that the chair was defective. He also contended that Alexander fabricated the story of the chair's failure, to avoid being disciplined for the firearm's accidental discharge.

Injury:

Alexander sustained a comminuted fracture of his left leg's medial femoral condyle, which forms an upper portion of the knee. He underwent surgery that included cleaning of bone fragments and articular cartilage, reattachment of the knee's posterior cruciate ligament, and the application of an external fixation device. He subsequently underwent surgical removal of the fixation device, but he suffered residual impairment of his left knee's range of motion. The impairment necessitated a third surgery that included lysis of residual adhesions and debridement of nonviable bone.

Alexander claimed that he suffers constant residual pain, residual arthritis, and an inability to tolerate extended periods in which he is standing or walking. He contended that his arthritis will worsen and that he will ultimately have to undergo replacement of his injured knee. He claimed that his residual injuries constitute a partial disability that prevents his resumption of work. He contended that he intended to work until age 63, but that he was given a line-of-duty retirement. He now works as a deputy sheriff in South Carolina, where his duties include supervising a metal detector at a courthouse.

Alexander sought recovery of his future medical expenses, his past and future lost earnings, his future lost pension and annuity benefits, and damages for his past and future pain and suffering.

Verdict Information:

The jury found that the city was liable for Alexander's injury. It determined that Alexander's damages totaled \$4,548,000.

Anderson Alexander

\$250,000 Personal Injury: Future Medical Cost

\$400,000 Personal Injury: Past Lost Earnings Capability

\$1,300,000 Personal Injury: FutureLostEarningsCapability

\$500,000 Personal Injury: Past Pain And Suffering

\$1,000,000 Personal Injury: Future Pain And Suffering

\$1,060,000 Personal Injury: future loss of pension

\$38,000 Personal Injury: future loss of annuity

Post Trial:

Judge Arthur Schack denied defense counsel's oral motion for a new trial. Defense counsel has filed a written motion.

Editor's Comments:

This report is based on information that was provided by plaintiff's and defense counsel.

