

Verdict

685

1 (Court Exhibits VI, VII, VIII and IX were
2 marked.)

3 COURT OFFICER: All rise. Jury entering.

4 (Jury enters courtroom; the following
5 occurred:)

6 THE COURT: Thank you. You may all have a seat.
7 The court has received jury note number one: We
8 the jury have reached a verdict.

9 THE CLERK: Will the foreperson please rise.
10 Has the jury reached a verdict in accordance with
11 the questions submitted to you by the court, ma'am?

12 THE FOREPERSON: Yes.

13 THE CLERK: I will now read the questions and ask
14 that you give me the answer and by what vote, okay, ma'am?

15 THE FOREPERSON: Yes.

16 THE CLERK: With respect to question number one:
17 Was the chipped cover board on the 149th Street subway
18 platform a condition that existed when the plaintiff got
19 injured?

20 THE FOREPERSON: Yes.

21 THE CLERK: By what vote?

22 THE FOREPERSON: 6/0.

23 THE CLERK: Question number two: Was the chipped
24 platform cover board an unsafe condition?

25 THE FOREPERSON: Yes.

Verdict

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

THE CLERK: By what vote?

THE FOREPERSON: 6/0.

THE CLERK: Question number three: Should defendant have known that the unsafe condition existed?

THE FOREPERSON: Yes.

THE CLERK: By what vote?

THE FOREPERSON: 6/0.

THE CLERK: Question number four: Did defendant have sufficient notice of chipped cover board on the subway platform before the accident to correct it or take other suitable precautions before the accident occurred?

THE FOREPERSON: Yes.

THE CLERK: By what vote?

THE FOREPERSON: 6/0.

THE CLERK: Question number five: Did defendant fail to correct the chipped platform cover board or take other suitable precautions before the accident occurred?

THE FOREPERSON: Yes.

THE CLERK: By what vote?

THE FOREPERSON: 6/0.

THE CLERK: Question number six: Was defendant's failure to correct the unsafe condition or take other suitable precautions a substantial factor in causing the plaintiff's injuries?

THE FOREPERSON: Yes.

Verdict

687

1 THE CLERK: By what vote?

2 THE FOREPERSON: 6/0.

3 THE CLERK: Question number seven: Was plaintiff
4 Andrew Flores negligent?

5 THE FOREPERSON: No.

6 THE CLERK: By what vote?

7 THE FOREPERSON: 6/0.

8 THE CLERK: Question number eight: Was the
9 negligence of Plaintiff Andrew Flores a substantial factor
10 in causing his injuries? I'm sorry.

11 Question number ten: State the amount of
12 damages, if any, that will fairly compensate plaintiff for
13 pain and suffering from the date of the accident March 2007
14 to the date of your verdict? Total dollar amount awarded?

15 THE FOREPERSON: 266,000.

16 THE CLERK: By what vote?

17 THE FOREPERSON: 6/0.

18 THE CLERK: Question number 11: State the amount
19 of future damages, if any, that will fairly compensate
20 plaintiff for loss of enjoyment of life and pain and
21 suffering damages that are to be incurred in the future.

22 (A) Future pain and suffering/loss of enjoyment
23 of life?

24 THE FOREPERSON: 375,000.

25 THE CLERK: (B) Medical Expenses?

Verdict

688

1 THE FOREPERSON: 535,000.

2 THE CLERK: By what vote?

3 THE FOREPERSON: 5/1.

4 THE CLERK: Question number ten: State the
5 number of years, the amount of future damages is intended
6 to compensate Plaintiff Andrew Flores for:

7 (A) Pain and Suffering?

8 THE FOREPERSON: That is question number 12?

9 THE CLERK: Question number 12, that is correct,
10 ma'am.

11 THE FOREPERSON: Fifteen years.

12 THE CLERK: (B) Medical Expenses?

13 THE FOREPERSON: Fifteen years.

14 THE CLERK: By what vote?

15 THE FOREPERSON: 5/1.

16 THE COURT: Thank you.

17 Members of the jury, your verdict completes your
18 service in this case and on behalf of the judicial system
19 of the state I thank you for that service.

20 Before you leave the courtroom, however, I want
21 to inform you that you do not have to answer questions
22 about the case asked by anyone other than me. The public
23 interest requires that jurors have the upmost freedom of
24 debate in the jury room and that each of you be free to
25 express your views without fear of what others may think

Proceedings

689

1 and although you're not required to maintain secrecy about
2 what occurred in the jury room, you should keep in mind
3 your own best interest as jurors before discussing the case
4 with anyone else or answering any questions about it. In
5 sum, you are free to discuss the case with anyone and you
6 are also free to decline to discuss the case.

7 On behalf of the Bronx Supreme Court, I want to
8 thank all of you for answering your call of duty to be
9 jurors in this judicial system that we have. We have to
10 understand that without your participation, we wouldn't be
11 able to dispense justice with peers in the community. So I
12 want to thank all of you for your time and for your
13 verdict.

14 You are hereby released. If anyone is interested
15 engaging in conversations with the attorneys, you can
16 certainly hang out but you don't have to. I thank you once
17 again. Thank you very much.

18 COURT OFFICER: All rise. Jury exiting.

19 (Jury exits courtroom.)

20 MR. MORELLO: Your Honor, I move to set aside the
21 verdict as against the weight of the evidence. I would ask
22 the court to entertain my motion to dismiss based upon lack
23 of notice. There was no actual notice and there was no
24 competent evidence of lack of constructive notice. I also
25 would like to at least have 30 days to move to set aside

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

the verdict.

THE COURT: I'll give you 30 days.

MR. MORELLO: What about the motion on notice?
On everything?

THE COURT: On everything, counsel. This is a
court exhibit. Would you be so kind to attach this motion?

MR. MORELLO: Okay.

THE COURT: Thank you. Then I'll give you,
counsel, how many days do you need to respond?

MR. PFLUGER: I guess the 30 days, Judge.

THE COURT: Okay. And then I'll give you another
ten days to reply if you need to. All right. Have a good
day, everyone.

MR. PFLUGER: Thank you, Judge, you too.

THE COURT: I would recommend if you're going to
refer to testimony that you refer to the transcript if
necessary.

MR. MORELLO: Yes, Your Honor.

* * * * *

C E R T I F I C A T I O N

I, RENÉE SCOTT, do hereby certify that the within
proceedings are a true and accurate transcript of the original
stenographic record.

Renee Scott
RENEE SCOTT, CSR, RPR
SENIOR COURT REPORTER