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VERDICTS AND SETTLEMENTS

Personal Injury
Premises Liability
Slip and Fall

Theresa De Los Santos v. D.S.L. Construction, et al.

Published: Jul. 10, 2020 | Result Date: Jan. 13, 2020 | Filing Date: Jul. 21, 2017 |

Case number: BC669661Settlement – **\$325,000**

Judge

[Jon R. Takasugi](#)

Court

Los Angeles County Superior Court

Attorneys

Plaintiff

[John S. Hinman](#)

(Hinman Law Group, PC)

[Seth E. Workman](#)

(Hinman Law Group, PC)

[Ronald J. Fomalont](#)

(Law Offices of Ronald Fomalont)

Defendant

Christina Y. Morovati
(Armijo & Garcia)

Facts

On July 25, 2015, plaintiff Theresa De Los Santos was walking near the pool area of her apartment building when she stepped on a metal drain pipe cover. The cover was in the middle of the walkway and near flush to the ground as it was intended to be walked on. However, the drain cover was not properly maintained and it slipped forward more than a half an inch when De Los Santos stepped down and as a result her toe caught the raised edge of the drain, causing her to trip forwards. Unable to catch herself, De Los Santos smashed into the ground.

Contentions

PLAINTIFF'S CONTENTIONS: Plaintiff claimed that defendant had failed to choose the proper drain pipe cover, using a cover with flimsy metal prongs, prone to wearing out, to hold it in place instead of a full-circle attachment that would have prevented movement. Further, defendant failed to properly maintain the cover when it failed to replace the loose cover or do anything to fixate it in place. Further, the raised lip around the cover itself presented a tripping hazard and the combination of loose cover and raised lip created a trap to unsuspecting pedestrians. Regarding damages, plaintiff contended that all of her subsequent medical care, including both of plaintiff's surgeries and the significant long-term complications of the reverse shoulder replacement, were related to her injuries from the fall. She further contended, as a result of her complications, plaintiff was permanently disabled and unable to participate in basic life activities such as driving a car due to the significant dysfunction in her dominant arm.

DEFENDANT'S CONTENTIONS: Defendant claimed that plaintiff was inattentive while walking and had a personal history of multiple falls and was a fall risk, in particular due to a long history of opioid dependence and abuse. Defendant further contended that although plaintiff's initial surgery was related to her fall, her second surgery was completely unrelated to the fall and instead the result of a subsequent rotator cuff tear of unknown cause. Defendant contended that plaintiff had numerous prior injuries to her right arm and other areas of her body that caused disability and depression, and that most of her long term issues were related to those prior injuries and conditions and not the injuries from her fall.

Injuries

Plaintiff suffered a comminuted fracture of her right humerus and full thickness rotator cuff tear. She also suffered significant facial lacerations, requiring 21 stitches to repair. She initially required an open reduction with internal fixation surgery on her right

shoulder and subsequently underwent a second surgery for a reverse shoulder replacement.

Result

The case settled for \$325,000.

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