

DAILY BUSINESS REVIEW

VERDICTS & SETTLEMENTS

Attorneys Win \$2.7 Million Verdict After Palm Beach State College Admits Liability

by Samantha Joseph

Domnick Cunningham & Whalen attorneys won \$2.7 million for a woman who needed multiple surgeries after injuring her ankle at Palm Beach State College.

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Partners Jeanmarie Whalen and Fred Cunningham won the verdict on behalf of Dr. Dwella Nelson, who fell through a rotted ramp while visiting the college in 2015 for her 5-year-old daughter's dance recital at the Eissey Campus Theatre.

Case: Dwella Nelson v. Palm Beach State College

Case No.: #50-2016-CA-001650-XXXX-MB

Description: Personal Injury

Filing date: Feb. 16, 2016

Verdict date: April 11, 2018

Judge: Palm Beach Circuit Judge Donald Hafele

Plaintiff attorneys: Jeanmarie Whalen, Fred Cunningham and Matthew Christ, Domnick Cunningham & Whalen, West Palm Beach

Defense attorneys: Edward Prieto, Quintairos Prieto Wood & Boyer, West Palm Beach.

Verdict amount: \$2,705,000.00

dance recital at the Eissey Campus Theatre.

Nelson fell as she took her daughter to a trailer used as a dressing room. She sued the college and her daughter's dance school, the Academy of Dance, Music and Theatre,

which entered a confidential pre-trial settlement.

The college fought the suit and litigated for about two years before admitting liability—a move that prompted Domnick Cunningham & Whalen attorneys to seek

civil sanctions, and Palm Beach Circuit Judge Donald Hafele to consider imposing criminal sanctions over a delayed disclosure by the college.

“A key issue in the case was whether or not there was notice” of the rotted ramp, Whalen said.

It turned out there was, and the college knew of the faulty structure 10 days before Nelson’s fall. Palm Beach State College’s theater manager had submitted a work order after she noticed sagging along portions of the wooden ramp.

But that document was not part of the records the college provided during discovery.

“The first time this was disclosed to us was within two weeks of our trial,” Whalen said.

Plaintiff counsel argued the delay led them to undertake tens of thousands of dollars in expenses—conducting a mock trial, taking depositions and retaining an expert witness, among other costs—to prove liability.

The school’s attorney, Edward Prieto, of Quintairos Prieto Wood & Boyer in West Palm Beach, said the college did not in-

tend to withhold information. His court filings show the theater manager had entered the work order using the theater’s building number, instead of the one assigned to the trailer. A search for trailer’s maintenance records therefore did not return the work order.

“It wasn’t anything willful or deliberate on the part of the college,” Prieto said. “It was a mistake. It was an inadvertent error.”

Hafele found no criminal contempt after a hearing in November but granted Domnick Cunningham & Whalen’s motion for a civil sanction. He awarded the plaintiff more than \$80,000 to cover litigation costs incurred because of the delayed disclosure.

The college challenged the order. Its appeal is pending before the Fourth District Court of Appeal.

Meanwhile, the case went to trial to determine damages, with Nelson seeking more than \$10 million.

The jury returned a multimillion-dollar verdict. It awarded Nelson \$339,000 for past medical expenses, \$711,000 for future health-care costs, \$725,000 for lost

earning capacity, \$275,000 for past pain and suffering and \$575,000 for future suffering.

Jurors also awarded Nelson’s husband, Robert, \$80,000 for the loss of his wife’s comfort, society, attention and services in the past and future.

Nelson welcomed the verdict.

“Our lives have been dramatically impacted by this incident, and we have waited a long time for someone to be held accountable,” Nelson said in a statement. “Public institutions have an obligation to keep the public safe on their property. Palm Beach State College failed to do so, and the jury agreed they should pay for their negligence.”

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Domnick
Cunningham
& Whalen