

PREMISES LIABILITY

Dangerous Condition — Negligent Repair and/or Maintenance Lobby

Lobby should have had mats to prevent slip in rain: plaintiff

VERDICT **\$425,000**

CASE Benita Carruth v. Equivest Development Inc., 1500 Walnut Acquisition Partners LP, 1500 Walnut Enterprises LLC, Equivest Management Co.
No. 131200006

COURT Philadelphia County Court of Common Pleas

JUDGE Mary D. Colins

DATE 4/23/2015

PLAINTIFF

ATTORNEY(S) Brad Cooper, Brad Cooper & Associates, LLC, Philadelphia, PA

DEFENSE

ATTORNEY(S) Elizabeth F. Walker, Campbell, Lipski & Dochney, Philadelphia, PA

FACTS & ALLEGATIONS On Jan. 12, 2012, plaintiff Benita Carruth, 38, a social worker, entered her office building, at 1500 Walnut St., in Center City, Philadelphia. She claimed that as she walked into the lobby, she slipped and fell on rainwater that had accumulated on the marble floor, twisting her right ankle.

Carruth sued property owners and managers Equivest Development Inc. (which was later dismissed) and 1500 Walnut Enterprises LLC, alleging the defendants were negligent in their maintenance of the premises, which created a dangerous condition.

Her counsel faulted 1500 Walnut for failing to put mats in the lobby, given the slippery conditions created by rainfall.

A building security personnel testified that there were floor mats in place at the time of the accident. The defense maintained that Carruth was comparatively negligent for failing to walk on the mats.

INJURIES/DAMAGES *ankle ligament, tear; ankle, sprain/strain; debridement; nerve impingement; physical therapy; scar tissue; swelling; talofibular ligament, tear*

That evening, Carruth presented to an emergency room with a swollen ankle, and she was diagnosed with a sprain.

She followed up with her family physician, who referred her to an orthopedist, who confirmed the sprain. For the next two years, Carruth continued to see an orthopedist (who diagnosed her with a chronic sprain), undergoing multiple courses of physical therapy, and trying different treatments (elevation, non-weight-bearing) for her ankle, all of which were unsuccessful.

In January 2014, Carruth presented to a podiatrist, who reviewed her prior MRIs and diagnosed her with an anterior talofibular ligament tear in her ankle. In August, she underwent surgery in which the podiatrist repaired the partial tear, debrided leftover scar tissue, and released a nerve entrapment.

Carruth remained non-weight-bearing during the ensuing weeks and followed up with her podiatrist. No further treatment was rendered. She sought to recover approximately \$6,000 in medical costs.

Carruth's podiatrist causally related her ligament tear and surgery to the accident, and opined that she will continue to experience ongoing deficits in the ankle.

Carruth, who reportedly missed only a few weeks of work throughout her treatment, testified that she experiences intermittent swelling and is unable to stand for long periods or walk long distances. She sought damages for past and future pain and suffering.

The defense's expert in podiatry opined that Carruth did not suffer a talofibular ligament tear and that her surgery was unrelated to the accident. The expert attributed her surgery to arthritis.

RESULT The jury found that 1500 Walnut was 100 percent liable. Carruth was determined to receive \$425,000.

DEMAND None

OFFER \$30,000

INSURER(S) Zurich North America

TRIAL DETAILS Trial Length: 4 days
Trial Deliberations: 2 hours

PLAINTIFF

EXPERT(S) Richard M. Jay, D.P.M., podiatry surgery, Philadelphia, PA (treating)

DEFENSE

EXPERT(S) Michael A. Troiano, D.P.M., podiatry surgery, Philadelphia, PA

EDITOR'S NOTE This report is based on information that was provided by plaintiff's counsel. Defense counsel declined to contribute.

—Aaron Jenkins