

RESULT The case settled for \$3.4 million.

**PLAINTIFF
EXPERT(S)**

James J. Hutson, M.D., cumulative trauma disorders, Miami, FL
Charles Little, CPA, economics,
Elizabeth Oullette, M.D., orthopedics,
Stephen Wender, M.D., orthopedic surgery, Hollywood, FL

**DEFENSE
EXPERT(S)**

Anthony Dorto, M.D., physical medicine,
Nancy Erickson, M.D., pain management,
Russell Kolitz, M.D., neuropsychology,
Scott Piper, M.D., orthopedic surgery,
Sally K. Russell, M.D., neuropsychology,
John M. Williams, ph.D, vocational
rehabilitation, Pompano Beach, FL

EDITOR'S NOTE This case is based on information provided by the plaintiff's counsel.

—Matthew Rabin

VERDICT *of the* MONTH

PREMISES LIABILITY

Inadequate or Negligent Security — Wrongful Death

Lax security to blame for drunk teen stabbed in parking garage

SETTLEMENT **\$422,000**

CASE Tatyana Yankovska, as the natural parent and personal representative of the Estate of Mikhail Platonov, deceased v. Royal Cafe Inc. a Florida Corporation authorized to conduct business in Florida, 524 Ocean Drive a Florida Corporation authorized to conduct business in Florida d/b/a Teasers Cafe, Standard Parking Corporation, a foreign corporation authorized to do business in the State of Florida and Armor Security Inc., a Florida corporation authorized to conduct business in the State of Florida, No. 04-27413-CA-06
COURT Miami-Dade County Circuit Court, 11th, FL
JUDGE Scott Silverman
DATE 1/18/2007

PLAINTIFF

ATTORNEY(S) Paul A. McKenna, McKenna & Obront, Miami, FL

DEFENSE

ATTORNEY(S) Asa B. Groves, III, Groves and Verona, P.A., Miami, FL (Standard Parking Corporation)
Scott D. Krevans, Conroy Simberg Ganon Krevans & Abel P.A., Hollywood, FL (Armor Security Inc.)
Luis F. Navarro, Navarro & Associates P L, Coral Gables, FL (Teasers Cafe)
Louis J. Terminello, Terminello & Terminello P.A., Miami, FL (Royal Cafe Inc.)

FACTS & ALLEGATIONS On July 25, 2004, plaintiff's decedent Mikhail Platonov, 18, went out for a night of drinking and dancing with high school friends in South Beach for an all-you-can-drink special at Royal Cafe. Platonov became highly intoxicated and his friends took him to the South street parking garage on Miami Beach to put him into his car and take him home.

Platonov got into an argument in front of the garage with some young men almost to the point of violence. Inside of the parking garage a second altercation flared with the same men, and Platonov was attacked and beaten up. He was put into his car, which was stuck repeatedly with a baseball bat and the attackers were able to pull him from the car. Platonov's friend put him back in the car and drove away while being pursued by the assailants.

Although they were able to escape the attackers momentarily, the pair was unable to exit the parking garage because there was a car in front of them stopped at the garage attendant booth, which wasn't allowed to leave because the driver didn't have a ticket. Platonov's friend rammed into this car and tried to escape the garage, but the attendant would not raise the gate to allow them to exit.

The assailants caught up with Platonov and began attacking the car with chains and bats and Platonov got out with a raised bottle. He was stabbed and collapsed in the garage.

On behalf of Platonov, his mother, Tatyana Yankovska, sued Royal Cafe Inc. and 524 Ocean Drive, operating as Teasers Cafe, under the state's dram shop act, and Standard Parking Corp. and Armor Security Inc. for negligent security, seeking wrongful death damages.

The plaintiff sued Teasers Cafe because that is where the underage assailant, who stabbed Platonov, had been drinking.

Plaintiff's counsel noted that the entire fight from start to finish within the walls of the parking complex lasted about 40 minutes, and police were not called until the very end. None of the guards was aware of the fight despite a closed-circuit security monitoring system and a roving guard on patrol. Once the police were notified, officers responded quickly.

Plaintiff's counsel contended that Standard Parking was liable because a supervisor violated the company policy that

MIAMI-DADE

any accident or emergency is to be immediately reported to the police by dialing 911.

Defense counsel for Standard Parking contended that its staff was not obligated to call police because it was not an accident, and they owed no duty to Platonov.

Plaintiff's counsel countered that there was an accident once Platonov's vehicle rammed the car in the exit of the parking garage and the parking supervisor failed to report it via his cell phone.

Plaintiff's counsel contended that Armor Security was liable because one of its guards on duty was not monitoring the closed-circuit security system. He had left the office and was unable to get into the office and call the police.

Defense counsel contended that the guard said she yelled into the booth for a parking cashier to call police.

Plaintiff's counsel noted that no call was made from the office phone. The only call was made by the guard's cell phone at the very end of the fight.]

Defense counsel noted that an autopsy of Platonov's body showed that his blood-alcohol content was .21, which was well above the legal limit of .08.

Eyewitnesses also reported that Platonov had instigated the incident by yelling at people on the street, and by exiting his car during the final confrontation with a raised bottle in his hand.

INJURIES/DAMAGES *death*

Platonov died as a result of the stabbing. His mother, a Russian immigrant who has lived in the United States for 10 years, sought damages for her pain and suffering.

RESULT Judge Scott Silverman sent the parties into nonbinding arbitration where the arbitrator held for the defense finding them not liable for the incident.

Plaintiff's counsel opted to settle the case outside of court due to Florida State Statute 768.36 (2) that states that a plaintiff cannot recover any damages for loss or injury if the plaintiff is intoxicated at the time of incident, and if the plaintiff was more than 50% liable for the incident.

The plaintiff settled for \$422,000 with Standard Parking paying \$50,000 and Armored Security paying \$372,000. The settlements with the two bars were confidential.

PLAINTIFF**EXPERT(S)**

Gregg O. McCrary, security/premises liability, Fredericksburg, VA
Donald Shultz, security/premises liability, Ustis, FL

DEFENSE**EXPERT(S)**

George B. Slattery, security consultation, Miami, FL

—Matthew Rabin

CONSTRUCTION**Scaffolds and Ladders — Fall from Height****Back leg of ladder collapsed, causing fall, plaintiff alleged****VERDICT****Defense****CASE**

Charles Post v. Sterling Contractors and Developers, LLC, No. CACE05007202

COURT

Miami-Dade County Circuit Court, FL

JUDGE

Dorian K. Damoorgian

DATE

12/6/2006

PLAINTIFF**ATTORNEY(S)****Richard F. Hussey**, Richard F. Hussey, P.A., Fort Lauderdale, FL**DEFENSE****ATTORNEY(S)****Lynn M. Bagley**, Quintairos Prieto Wood & Boyer Pa, Fort Lauderdale, FL
Edward Prieto, Quintairos, Prieto, Wood & Boyer, P.A., Miami, FL

FACTS & ALLEGATIONS On Dec. 1, 2004, plaintiff Charles Post borrowed a ladder from a Sterling Contractors and Developers employee to inspect the completed paint job at The Village of Lake Pine Homeowners Association. While descending the ladder, Post claimed that the back left leg of the ladder collapsed, causing him to fall.

Post sued Sterling Contractors for negligence. Post and two homeowner association board members testified that a Sterling employee provided and set up the ladder, but they didn't see Post fall from it. They claimed that they saw Post holding his right arm and complaining of severe pain.

The Sterling employee testified that he had not obtained or set up the ladder for the Post, and claimed that Post walked around to another part of the building and returned a few minutes later complaining of pain.

After the incident, Post requested that Sterling provide him with the ladder for insurance purposes. Post kept the 6-foot, aluminum, A-frame ladder in his custody and control for over a year. Defense counsel noted that when the ladder was returned to Sterling, the back left leg was damaged and bent outward. Previous photographs of the ladder did not depict any damage.

Defense counsel showed that the plaintiffs' expert witness had previously indicated that it was unlikely for the ladder in question to have collapsed as described by the three witnesses.

INJURIES/DAMAGES *arm; herniated disc, cervical; shoulder; wrist*

Post claimed a fractured wrist, cervical disc herniations, a labral tear of right shoulder and a right hip injury. Plaintiff's counsel called a number of witnesses who testified to Post's physical limitations and complaints of pain since the incident,