1994 WL 1874104 (Unknown State Ct.), 10 N.Eng. J.V.R.A. 5:C4
(Publication page references are not available for this document.)

THURMAN CROSS vs. TASKIN FURNITURE & GLASS, INC.
88-0132

DATE OF VERDICT/SETTLEMENT: March 30, 1994

TOPIC: NEGLIGENCE ALLEGED AGAINST COMPANY WHICH INSTALLED CARPET IN SUPERMARKET BUILDING WHERE PLAINTIFF WAS PERFORMING PAINTING WORK - DEFENDANT ALLEGEDLY LEAVES DOUBLE-EDGED CARPET BLADE ON HALF-WALL UPON WHICH PLAINTIFF WAS KNEELING WHILE PAINTING - PLAINTIFF LACERATES HAND ON BLADE AS HE ATTEMPTED TO GET DOWN FROM HALF-WALL - THREE SURGERIES - SERIOUS PERMANENT INJURY.

SUMMARY:
Result: $140,000 Gross Verdict

ATTORNEY:
Plaintiff's: **John** A. Agostini of Pittsfield, Ma for plaintiff.
Defendant's: **John** B. **Stewart** of Springfield, Ma for defendant.

JUDGE: **John** F. Murphy

RANGE AMOUNT: $100,000-199,999
STATE: Massachusetts

COUNTY: Franklin County

INJURIES:
NEGLIGENCE ALLEGED AGAINST COMPANY WHICH INSTALLED CARPET IN SUPERMARKET BUILDING WHERE PLAINTIFF WAS PERFORMING PAINTING WORK - DEFENDANT ALLEGEDLY LEAVES DOUBLE-EDGED CARPET BLADE ON HALF-WALL UPON WHICH PLAINTIFF WAS KNEELING WHILE PAINTING - PLAINTIFF LACERATES HAND ON BLADE AS HE ATTEMPTED TO GET DOWN FROM HALF-WALL - THREE SURGERIES - SERIOUS PERMANENT INJURY.

FACTS:
This was an action brought by a male plaintiff factory worker, in his early 40's at the time of the events in question, for injuries suffered while performing interior painting work at a jobsite. The plaintiff brought suit against the defendant Taskin Furniture & Glass, Inc., alleging negligence on the part of the defendant's employees in leaving dangerously sharp double-edged 'carpet blades' on the jobsite after completing their carpet installation. The plaintiff contended that as a result, he suffered a severe laceration to his hand while attempting to climb down from the half-wall upon which he was kneeling, when his hand came to rest on the 'carpet blades.'

The plaintiff testified that just prior to the accident, he was painting trim board at ceiling level and was kneeling on a half wall to gain access to the ceiling. The plaintiff maintained that as he stepped off the half wall, he placed his hand on the half wall to brace himself and inadvertently placed his hand on an

unprotected cutting tool allegedly left on the half wall by the defendant's employees. The evidence indicated that the defendant's employees had installed carpet in the area where the plaintiff was working approximately six hours before the plaintiff's accident.

The plaintiff produced a witness who testified that he observed the defendant's employee using double edge carpet blades while performing the carpet installation. This witness further stated that he observed several double edge blades in the area where the carpet was being installed during the time of installation. The plaintiff contended that the defendant was vicariously liable for the negligence of its employees in failing to remove all tools and equipment from the area upon completion of the carpet installation and was specifically negligent in leaving dangerously sharp cutting blades in the worksite area, posing the risk of danger to other workers in the area.

The defendant denied liability and specifically denied that its employees used double-edge carpet blades in performing their installation work. The defendant maintained that its workers used only single-edge cutting blades and, therefore, that the plaintiff could not have been injured due to the negligence of its workers. The defendant called the employee/installer who specifically testified that he used a single edge blade which he continually sharpened as he performed the installation work. The defendant maintained that the cutting blades upon which the plaintiff was injured was placed on the half-wall by someone else, and other contractors and co-employees were doing work on the site, e.g. slitting cardboard boxes, and other activities preparing for the opening of the supermarket.

The defendant also argued that the plaintiff was overwhelmingly comparatively negligent in failing to watch where he was placing his hand while alighting from the half-wall. The defendant maintain that since the plaintiff was working on a jobsite with many different contractors performing different functions and using various pieces of equipment, he should have exercised reasonable care to observe the area around him. Had he done so, he would have seen the cutting blade and taken action to avoid it, according to defense contentions.

The medical evidence indicated that the plaintiff sustained a severe laceration injury to his non-dominant hand. He was required to undergo three surgeries and, according to his medical expert, is left with a 54% permanent partial disability of the hand. Medical bills totaled approximately $16,000. The plaintiff's economist calculated lost earnings reduced to present value of $253,000.

The plaintiff demanded $125,000 in settlement and the defendant's highest offer was $80,000. The jury found for the plaintiff and returned a gross verdict of $140,000 which was reduced by 24% in accordance with the jury's assessment of comparative negligence against the plaintiff. With pre-judgment interest, the award totaled $183,000.

Plaintiff's expert economist Robert Emmet O'Toole from Philadelphia, Pa.

COMMENTARY:

Particularly helpful to the plaintiff's case was the factual testimony offered by another worker, also present on the jobsite at the time of the plaintiff's injury, who asserted that he observed the defendant's carpet installer using double-edged blades during the course of his installation work and further observed several of the blades strewn about the area during the installation work. The fact that this witness admitted that he was a client of the plaintiff's lawyers firm apparently did

not significantly diminish his credibility in the eyes of the jury. The description of the cutting tool given by the witness matched the tool upon which the plaintiff sustained injury, lending strong support to the claim that the cutting tool upon which the plaintiff was injured, had been inadvertently and carelessly left by the defendant's installer. The jury's assessment of 24% comparative negligence reflected their at least partial acceptance of the defense argument that the plaintiff should have been watching where he placed his hand as he descended the half-wall, especially in light of the fact that he was working in an area where other contractors were present performing different jobs.

Jury Verdicts Review Publications,Inc.

PUBLISHED IN: New England Jury Verdict Review & Analysis, Vol. 10, Issue 5

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