

VIRGINIA LAWYERS WEEKLY

VERDICTS & SETTLEMENTS

Property owner settles in apartment fall case

By Virginia Lawyers Weekly Staff
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Plaintiffs were injured when they were knocked out of a third-story window during a concert held in an apartment complex in Blacksburg. The home belonged to Penn America's insured. The window was shielded by a mattress and plaintiffs were unaware of the window, until they were pushed through it.

Plaintiff Spiers suffered pelvic fractures and a knee injury. Plaintiff alleged he would require at least one hip replacement as a result of these injuries, which was disputed by defense. Plaintiff was back to work with no treatment since June 2005.

Plaintiff Upton suffered pelvic fractures and spinal fractures including T2-T8. Plaintiff alleged that he would require a hip replacement and would likely require a spinal fusion. Plaintiff was back to work with no treatment since November 2005. Defendants contested future surgery as treating physician stated in his medical records that surgical intervention was possible, but not likely.

Previously, in 2006, plaintiffs had settled with the tenant defendants in the amount of \$189,225. This was a pro rata share of a global recovery due to one death and two other brain injured victims.

In late March 2007, plaintiffs reached a global settlement with the landowner/property manager for \$95,000. Defendants claimed no liability, as the area was not a common area and any liability belonged to the lessees.

Type of Action: Personal injury-Premises liability

Injuries Alleged: Spinal, orthopedic

Name of Case: Richard Spiers v. Death by Stereo, et al.; Thomas Upton v. Death by Stereo, et al.

Court: Montgomery County Circuit

Case No.: CL05016744-00

Tried Before: Mediation

Name of Judge: Robert M.D. Turk

Special Damages: Spiers-\$15,000 medical bills; Upton-\$22,000 medical bills; lost wages - none claimed; future medical expenses - contested; loss of earning capacity - contested

Amount: \$95,000 from the defendant landowner/property manager and \$189,225 from the tenant defendants

Insurer: Penn-America

Plaintiffs' Attorney: Paul R. Thomson III, Roanoke

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