

State Trial Courts

VERDICT: Defense, stairs fall, defective lights timer, knee/ankle/back/neck.

A 12-0 Bozeman jury found that Dallas & Karen Thomas were not negligent in connection with injuries sustained by Karen Barbee in 10/99.

Barbee and her husband were tenants at Thomases' split-level apartment building. Barbee walked outside her apartment door on the second level at approximately 8 p.m. and turned on the light switch which did not activate the overhead lights to the common area. She walked down the stairway believing that there was adequate light to safely walk the staircase, but alleged that part way down the lighting became inadequate and she tripped and fell down the stairs. The lack of overhead lights had existed for 10-14 days prior to the accident. The landlord alleged that there was adequate light in the common area via plug-in night lights and that the timer controlling the overhead lights had been altered.

Barbee, 41, sustained a sprained right knee, fracture & ligament tear of the left ankle, back & neck herniation, TOS, and CTS. She underwent 5 surgeries including ankle surgery, temporary and permanent implantation of a neuro-stimulator and debridement of the calcaneal cuboid joint. Her doctors expected additional surgeries. Medicals were \$67,326. She claimed past wage loss of \$66,000 from her job as a waitress/hostess and permanent disability.

Plaintiff's experts: neurosurgeon John Oakley, Billings (deposed); orthopedic surgeon Jeffrey Hansen, Billings; orthopedic surgeon Michael Yorgason, Billings (deposed).

Defendant's experts: none.

Demand, \$280,000; offer, none. Jury request, \$67,326 past medicals, \$66,000 past wage loss, unspecified amounts for other damages; jury suggestion, \$0. Gregory Morgan, mediator.

Jury deliberated ½ hour 3rd day; Judge Neill.

Barbee v. Thomas, Gallatin DV 01-95, 6/11/03.

Larry Jent (Williams & Jent), Bozeman, for Barbee; James Halverson & Matthew Gallinger (Herndon, Sweeney & Halverson), Billings, for Thomas (Farmers Union Mutual Ins.).
