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Attorney gets \$6.3M award for injured janitor

Case: Willy Alphonse Dolcin v. Royal Caribbean Cruises

Case no: 10-45257 CA 22

Description: Negligence

Filing date: Aug. 19, 2010

Verdict date: Dec. 20, 2013

Judge: Miami-Dade Circuit Judge Darrin Gayles

Plaintiff attorney: Brett Rivkind, Rivkind & Margulies, Miami

Defense attorney: David Horr and Eddie Hernandez, Horr, Novak & Skipp, Miami

Verdict amount: \$6.3 million

Details: Haitian national Willy Alphonse Dolcin, now 42, worked as a cleaner on the Royal Caribbean cruise ship Jewel of the Seas from 2007 to 2009. He worked seven days a week, 10 hours a day.

In addition to his regular job duties, Dolcin and other cleaners were assigned to help boarding passengers with their luggage.

Dolcin injured his back while performing his cleaning duties. Rather than take him to a doctor in Miami when the ship docked there, the company sent him to Santo Domingo, Dominican Republic, for treatment. He was seen by a neurosurgeon and informed he needed surgery. No second opinion was sought.

Plaintiffs case: Rivkind said Dolcin agreed to surgery after the doctor told him it was urgent and the only way he could return to his job.

Following surgery, Dolcin was told



J. ALBERT DIAZ

Brett Rivkind of Rivkind & Margulies represented a Haitian national who injured his back while performing his cleaning duties on the Jewel of the Seas.

he was unfit for duty and sent home to Haiti, where the cruise line provided him with three months of physical therapy.

Dolcin sued the cruise line, alleging it failed to provide a safe workplace due to overwork, warn him of the dangers of the job and provide adequate rest and breaks. The suit also alleged the medical care was not proper and surgery was rushed and unnecessary.

The plaintiffs called four expert wit-

nesses: Dr. Jonathan Hyde, a Miami Beach orthopedic surgeon; Dr. Kenneth Fischer, a Miami neurosurgeon; Pinecrest economist Gary Anderson; and Orlando vocational rehabilitation expert Paul Deutsch. They testified the surgery was unnecessary and Dolcin would have required conservative treatment to get back to work.

Defense case: The cruise line denied all aspects of liability, insisting the job was

safe, Dolcin was properly trained and safety rules were in effect to address listing hazards.

The defense called two doctors as expert witnesses: Dr. Peter Livingston, a Hollywood neuroradiologist, and Dr. Luis Pagan, a Hialeah neurosurgeon. They



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backed the findings of the Santo Domingo doctor on Dolcin's back injury and need for surgery.

Outcome: Following a 10-day trial, jurors deliberated for one day before finding Royal Caribbean was negligent. They also found Dolcin was not negligent.

Jurors awarded him \$6.3 million, including \$5 million for pain and suffering and \$714,000 for future medical care.

Comments: "I'm thrilled with the verdict," Rivkind said. "I'm always concerned that a crew member from a Third World country won't receive a substantial award. But this gentleman deserved it. I told the jury pool, lady justice is blind, and you're supposed to balance the facts, regardless of what race or nationality the person is."

Post-settlement: The defense filed a motion for a new trial and remittitur.

— Julie Kay