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Florida Verdicts

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Plaintiff claimed overwork on cruise ship caused back injury

Amount:

\$6,282,261

Type:

Verdict-Plaintiff

State:

Florida

Venue:

Miami-Dade County

Court:

Miami-Dade County Circuit Court, 11th

Injury Type(s):

back-spondylosis; back-fusion, lumbar; neck-spondylosis; other-physical therapy; other-hardware implanted

Case Type:

Admiralty/Maritime - Jones Act; Worker/Workplace Negligence; Admiralty/Maritime - Unseaworthiness

Case Name:

Willy Alphonse Dolcin v. Royal Caribbean Cruises, LTD, No. 10-45257 CA 22

Date:

December 26, 2013

Parties

Plaintiff(s):

Willy Alphonse Dolcin (Male, 38 Years)

Plaintiff Attorney(s):

Brett A. Rivkind; Rivkind & Margulies, P.A.; Miami, FL, for Willy Alphonse Dolcin

Plaintiff Expert(s):

Gary Anderson; Economics; Miami, FL called by Brett A. Rivkind ■ Paul Deutsch; Ph.D., C.R.C., C.C.M.; Vocational Rehabilitation; Orlando, FL called by Brett A. Rivkind ■ Kenneth Fischer; M.D.; Neurology; Miami, FL called by Brett A. Rivkind ■ Jonathan Hyde; M.D.; Orthopedic Surgery; Miami Beach, FL called by Brett A. Rivkind

Defendant(s):

Royal Caribbean Cruises, LTD

Defense Attorney(s):

David J. Horr; Horr, Novak & Skipp, P.A.; Miami, FL, for Royal Caribbean Cruises, LTD

Defendant Expert(s):

Luis Pagan; Neurology; Hialeah, FL called by David J. Horr ■ Peter Livingston; Radiology; Hollywood, FL called by David J. Horr

Facts:

In 2009, plaintiff Willy Alphonse Dolcin, 38, worked seven days a week, 10 hours a day, as a janitor on the Royal Caribbean Cruises' *Jewel of the Seas*, a schedule he had maintained since 2007. In addition to his main job as a cleaner, Dolcin was required to help handle luggage for the ship's passengers on turnaround days when the vessel returned to its home port. He claimed that due to overwork and improper equipment, he severely injured his back. Dolcin sued Miami-based Royal Caribbean Cruises, LTD, alleging that his former employer was negligent under the Jones Act for its failure to provide him with a safe place to work. Dolcin's counsel contended that Royal Caribbean breached its duty to provide a seaworthy vessel for its crew. He contended that there was insufficient crew to perform all of the required work. He contended that this resulted in overworking the crew with a multitude of tasks without adequate rest. He also contended that the cruise line failed to warn him of the dangers of cumulative trauma from the constant lifting, bending and carrying of heavy items. Dolcin's counsel contended that when Dolcin informed his employer of his back problem when the ship was in Miami, the company failed to provide him with prompt, proper and adequate medical care and treatment. He contended that rather than take him to a doctor in Miami, the company sent him to the Dominican Republic for back surgery, which failed. He further contended that after surgery, Dolcin was sent home to Haiti with minimum follow-up care. He contended that Royal Caribbean failed to provide Dolcin with maintenance and cure payments which under maritime law an employer is obligated to provide to an injured employee. Defense counsel denied that Royal Caribbean failed to provide Dolcin with a safe place to work. He contended that Dolcin was properly trained how to perform his job. He further contended that that there were safety rules in effect to protect the workers from back injuries. He contended that Dolcin had the option to request help if he thought items were too heavy. He also contended that Royal Caribbean fully complied with its maintenance and cure responsibilities because Dolcin was subsequently found to be at maximum medical cure.

Injury:

Dolcin was diagnosed with spondylosis at the lumbar L4-5 and L5-S1 region. He underwent a two-level lumbar fusion with an interbody cage implanted. Dolcin claimed that he has permanent lifting restrictions of 20 pounds and is unable to work. He claimed that he can't lift, run, squat, bend, play sports or walk long distances without pain. Dolcin's treating orthopedist testified that his back injury was caused by his job due to cumulative trauma from constant lifting, bending and carrying of heavy items. He also testified that Dolcin's employer rushed him to have surgery in the Dominican Republic instead of trying conservative treatment. He testified that the surgery resulted in a failed lumbar fusion. He also testified that Dolcin needs future medical care of either revision surgery or pain management. Defense counsel argued that Dolcin's injury was not caused by his work and was a degenerative, pre-existing condition.

Result:

The jury found that there was negligence on the part of Royal Caribbean Cruises under the Jones Act for failure to provide a safe place to work; that there was unseaworthiness on the part of Royal Caribbean; and that Royal Caribbean failed to provide Dolcin with prompt, proper and adequate medical care and treatment, all of which it said were causes of injury to him. It found there was no negligence on the part of Dolcin. It also found that Dolcin was not entitled to maintenance and cure. It determined that Dolcin's damages totaled \$6,282,261.

Willy Alphonse Dolcin: \$714,194 Personal Injury: Future Medical Cost; \$53,936 Personal Injury: Past Lost Earnings Capability; \$514,131 Personal Injury: Future Lost Earnings Capability; \$1,500,000 Personal Injury: Past Pain And Suffering; \$3,500,000 Personal Injury: Future Pain And Suffering

Trial Information:

Judge:

Darrin Gayles

Trial Length:

10 days

Trial Deliberations:

5 hours

Editor's Comment:

This report is based on information that was provided by plaintiff's counsel. Defense counsel did not respond to the reporter's phone calls.