



News

Appellate Spotlight: Defense Verdict for Four Seasons Resort in Wrongful Death Case Upheld by Florida Court of Appeal

November 20, 2020

Hinshaw client Zurich American Insurance recently had a defense verdict upheld in a wrongful death suit filed against Palm Beach's Four Seasons Resort. The suit had claimed that injuries sustained in an alleged trip and fall over a long tablecloth at the resort caused a patron suffering from cancer to suspend his chemotherapy treatments, and that he later died of the disease. Evidence introduced at trial indicated the elderly patron had a history of falls. Four Seasons secured a defense verdict at trial and the verdict was upheld by the Florida Fourth District Court of Appeal. Hinshaw partners Rory Jurman and James Wyman represented Zurich American and its insured at trial and on appeal. Hinshaw associate Jill Mendelsohn served as second chair at trial.

On appeal, attention centered on a jury instruction rarely used in Florida. Known as the "eggshell skull" instruction, it says a defendant is liable for the full extent of injuries to a vulnerable plaintiff. As described by Wyman, "the rule is that you take the person as you find them and you're responsible for the full amount of injury that results from rapping them on the head with your knuckles, even though any other person would not have suffered any injury at all." Adoption of this jury instruction could have serious implications for Florida defendants in personal injury cases involving preexisting health conditions.

Jurman and Wyman successfully argued that Florida Standard Civil Jury Instruction 501.5 already covers aggravation of a preexisting condition, and that it would be confusing to jurors to hear both instructions.

"We feel not only happy with the result but the fact that we were able to stem the tide with regard to this potential jury instruction issue, which would have potentially opened the floodgates or, at least, caused other issues down the line if it were adopted," said Jurman.

The ruling was given media coverage by *Daily Business Review* in a story titled "[How South Florida Lawyers Shielded the Four Seasons From Liability in Tablecloth Suit.](#)"

The case is *Norkin v. J.V. Associates (PB) LLC d/b/a Four Seasons Resort Palm Beach*, and *Four Seasons Hotels Limited Corporation*, Case No: 4D19-1919.

Attorneys

Jill Mendelsohn Friedman

Rory Eric Jurman

James H. Wyman

Service Areas

Complex Tort & General
Casualty

Offices

Ft. Lauderdale