

CASE TYPE: Premises Liability
RESULT: \$800,000

COUNTY: Orange
REPORT TYPE: Settlement

SUMMARY: Trash collector's foot slips into drain with broken cover; Male, 45, lumbar disk herniations

CASE: Eugenio Alejandro v. Placentia Gardens
PLTF ATTY: Booth & Koskoff, By: Donald J. Beck and Lawrence R. Booth, *Torrance*
DEFT ATTY: Lawson & McRae, By: Thomas A. Culbertson, *Santa Ana*
FACTS: Pltf, age 45, was struggling to maneuver a large wheeled trash dumpster, heavy with water from a rainstorm, into a position where his truck could lift and empty it. In so doing, his foot slipped into a drain with a broken cover at Deft's apartment house.
PER PLTF: That the steel grate drain cover installed when the apartment complex was completed in 1989 broke shortly after completion of the construction and was replaced with another steel grate; that that grate promptly broke, apparently because of the weight of vehicles which traveled the roadway where the grate was located; that the apartment complex owners then replaced the steel grate with pieces of 2x4 lumber, which continued to break on about an annual basis thereafter.
INJURIES: Herniations to L4-5 and S1 with laminectomies, internal fixation and fusion three months post-accident. MRI one month post-accident revealed a 9mm bulge at L4-5 and a 3mm bulge immediately above. Opaque myelogram and CT myelogram results in June 1997 showed a L4 herniation with nerve root impingement.
DEFENSE: Contended that Pltf was completely familiar with the grate and not only had serviced the location for many years but had received a written reprimand from his employer before this accident for having broken the grate by running over it with his trash truck. Deft contended that the accident was unwitnessed but that Pltf had asked a tenant of the apartment house to say she was a witness; that Pltf was capable of working in another occupation.
SPECIALS: \$52,500 past medical; \$78,000 past L.E.; \$842,000 present value of total future L.E.
SETTLEMENT: \$800,000: Pltf paid WC carrier \$66,000 of \$90,000 lien and agreed to Third Party compromise and release of WC matter with no further benefits.
DATE: 12/18/97 **ACTION FILED:** 1/97
NOTES: Justice John K. Trotter (Ret.) of JAMS was mediator. Steven Rice, Esquire, of Graves, Roberson & Bourrasa was attorney for intervenor.
COURT: Orange County Superior Court, Santa Ana

CRA # 9437