

# PREMISES LIABILITY

*Jack McDowell v. Defendant Retail Store*

**Net Verdict of \$43,000**



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**Plaintiff Counsel: Law Offices Of C.W. Wickersham Jr., P.A (Christopher Wickersham, Jr.)**

***Plaintiff asked Jury for \$3.6M — 1 Week Trial Duval County — Net Verdict \$43,000.***

Partners G. John Veith, Esq., and Deana Dunham, Esq., obtained a favorable verdict in a premises liability matter which was heavily litigated in the Circuit Court for Duval County, Florida. The trial was conducted over the course of a full week with the Plaintiff calling a forensic engineer and four medical experts. Plaintiff asked the jury for \$3.6 million. However, after attributing 40% comparative fault on the Plaintiff, the jury returned a net verdict of \$43,000. Because of a defense proposal for settlement filed well in advance of trial, the Defendant will be entitled to seek reimbursement of its attorney's fees and costs.

Plaintiff alleged the retail store violated its internal inclement weather policy by failing to have an entrance mat, warning cone and umbrella bag holder in the correct places. Since it had been raining at the time of the accident, Plaintiff alleged that other customers had tracked water into the store on their feet, shopping carts and umbrellas, which created an unreasonably hazardous and slippery floor. Plaintiff alleged that the crutches he was using slid out from beneath him as he entered the vestibule to the store, causing him to fall forward, landing on his right knee and face. After his fall, Plaintiff consulted a neurosurgeon who performed an anterior decompression and cervical fusion ("ACDF") surgery to alleviate symptoms of neck pain, numbness and tingling. Plaintiff also consulted an orthopedic surgeon who recommended surgery on his right knee to address a partial thickness, intrasubstance tear of the patellar tendon. Both doctors treated the Plaintiff under letters of protection. Plaintiff claimed past medical damages of \$156,951.00, future medical damages of \$425,000.00 and past and future wage loss of \$672,000. Using a per diem argument, Plaintiff also sought more than \$2,265,000 in compensatory damages for past and future pain & suffering, inconvenience and loss of enjoyment of life. All told, Plaintiff asked the jury to return a verdict in excess of \$3.6 million.

The trial team worked closely with appellate counsel Dan Weinger, Esq., and Nicholas Christopolis, Esq., to successfully address delicate legal issues arising during the trial. These issues included an evidentiary Daubert hearing held outside the presence of the jury as well as foundational and Worley issues raised by the Plaintiff.

The defense strategy utilized a two-pronged approach, which focused on building a solid comparative fault defense while simultaneously exposing the lack of legal causation for Plaintiff's alleged injuries.



## **About Luks, Santaniello, Petrillo, Cohen & Peterfriend**

**Our verdicts tell the story.**<sup>™</sup> Luks, Santaniello, Petrillo, Cohen & Peterfriend is a Florida Corporate and Insurance Defense Litigation firm committed to securing equal justice in the courtroom for business owners. We defend professionals, corporations and their insurance companies from both Liability and Workers' Comp claims out of eleven Florida offices: Key West, Miami, Fort Lauderdale, Boca Raton, Stuart, Fort Myers, Tampa, Orlando, Jacksonville, Tallahassee and Pensacola. The Law Firm is Peer Review Rated by Martindale-Hubbell.

The firm has a diversified team of over 130+ litigators. Members have tried over 200 cases in Florida State and Federal Courts. We have a strong reputation in defending complicated general liability bodily injury claims involving over treatment, high medicals, letter of protection(s) and questionable surgeries. The firm also has a full-service Appellate team in South, Central and Northern Florida to assist with summary judgments, motions in limine, discovery objectives, trial strategy and post trial positions.

The Daily Business Review selected Luks & Santaniello as finalists for the Most Effective Lawyers for its innovation in filing a Declaratory Judgment Action in a multiple Wrongful Death claim. Luks & Santaniello is a member of The Gavel.net LLC., Nationwide Claims Defense Network.

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