

# FLORIDA DEFENSE VERDICT



**M**anaging Partner Daniel Santaniello, Esq., Senior Partner Franklin Sato, Esq., and Junior Partner Angelise Petrillo, Esq., obtained a defense verdict on 12/15/2022 in a negligent security matter styled Plaintiff v. Defendant Retail Store. The lawsuit arose out of a criminal assault in the parking lot of Defendant's Retail Store in Palm Beach County. Plaintiff was the victim of an attempted robbery and battery after Plaintiff had asked to be escorted out by a Defendant Retail Store's employee due to her alleged in-store interactions with both assailants. Plaintiff exited the store and was loading her vehicle in the parking lot when the two criminal assailant non-parties attacked her with a tire iron and billie club. Plaintiff was allegedly beaten fifty times while the assailants attempted to separate her from her purse. The entire attack was caught on parking lot surveillance and showed Plaintiff being hit and struck on her head, body, and arms as she was being dragged along the parking lot pavement.

Plaintiff's security expert, Al Ortenzo attempted to testify that there was at least five prior incidents on the subject property that were substantially similar and sufficient to create both subjective and

objective foreseeability. The defense strategically combed through each of these instances with both the Plaintiff's security expert and the Defense's security expert, W. Kenneth Katsaris before the jury, and ultimately obtained testimony from each expert that the prior incidents, i.e. shoplifting and cell phone snatching, were not sufficient to establish foreseeability of violent crimes such as the one at issue. Mr. Ortenzo further testified and supported the defense's position that a security guard wouldn't have necessarily been on notice of the subject incident nor would the security guard been able to prevent same.

Plaintiff claimed multiple injuries from the attack. She received multiple staples along the backside of her head and testified that she was bleeding so much that it looked like she was wearing a red wig. Plaintiff also alleged the following injuries and underwent corresponding medical treatment: Cervical, Rotator Cuffs (physical therapy), Scarring (21 "dents"/scars all over her head under her hair), Traumatic Brain Injury, Post-Concussion Syndrome, problems with speech (slurring and mispronunciation), vision (black spots left eye), hearing (constant buzzing), short term memory loss (due to early



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onset dementia), Depression and Post Traumatic Stress Disorder (according to Psychologist, Dr. Iglesias and Neuropsychologist, Dr. Hirsch), PTSD (also per Dr. Iglesias and Dr. Hirsch for which she is attempting to get a German Shepard companion dog trained), nausea, fatigue, and pain and suffering (both past and future). She also underwent an ACDF at C5-7 on 3/27/14 by letter of protection with Dr. David Campbell who also issued Plaintiff a 9% impairment for cervical injuries due to the subject attack. The Defense's experts all refuted Plaintiff's allegations and provided evidence and testimony that same was not as a result of the criminal attack but due to Plaintiff's pre-existing and ongoing medical issues and conditions.

In terms of special damages, Plaintiff alleged approximately \$223,000.00 in past medical specials, \$470,257.00 in future medical specials, \$500,000.00 for pain and suffering for the incident itself, and \$4,000,000.00 (\$1,000,000.00 per decade) for future pain and suffering. The total damages requested by the Plaintiff were \$5,193,257.20. The Defense suggested approximately \$45,000.00 in special damages to the jury should they find liability.

Over the course of two weeks more than 20 witnesses were called to this trial, including 11 experts. The defense employed two key strategies to deal with the sympathy/prejudice associated with a plaintiff that was a victim of a crime and a reasonable pain and suffering. These strategies were employed in jury selection and closing arguments and helped deliver a verdict wherein the jury gave a complete defense verdict.