

DOCKET NO:CV-95-0555707-S : SUPERIOR COURT
MICHAEL GRAINSKY : JD OF HARTFORD
VS. : AT HARTFORD
MICHAEL M. TAYLOR, ET AL : OCTOBER 26, 1999

MEMORANDUM OF DECISION

This matter was heard by the undersigned as an arbitrator on June 25, 1999 pursuant to Practice Book 23-64. The following facts are found:

1. Storrs Associates is a general partnership consisting of Defendant Michael M. Taylor and Defendant Ilse K. Taylor.

2. Storrs Associates owed 1244 Storrs Road, Storrs, Connecticut at all material times.

3. 1244 Storrs Road was a small strip office development of an old movie theater.

4. Plaintiff Michael Grainsky and Elliott Cohen d/b/a "The Sports Dog" leased a portion of 1244 Storrs Road ("Premises") commencing on June 23, 1993 pursuant to the terms of a written lease.

5. The upper level over the Premises was leased to Golden Crown Restaurant of Storrs, Inc., a chinese

restaurant.

6. The upstairs tenant hosed down their kitchen nightly, which caused a water and grease mixture to flow into the Premises.

7. Defendants tried to correct this problem on numerous occasions, but without success.

8. Defendants replaced stained ceiling tiles and installed a catch basin system.

9. On or about September 17, 1994 between 9:30 a.m. and 10:30 a.m., Plaintiff slipped and fell after walking into the Premises about ten steps. The fall was caused by a water and grease mixture on the floor.

10. This was the biggest leak to date.

11. At the time of the fall, Plaintiff was behind in his rent.

12. It was dark in the premises at the time because the lights were out and there was no window which illuminated the critical area.

13. The light switches were in the rear of the Premises (which was designed by Plaintiff's franchisor).

14. Plaintiff suffered an injury to his right shoulder because of this fall, ultimately resulting in a 2 % permanent partial disability due to this accident. Plaintiff subsequently injured his neck in an auto accident.

15. Plaintiff required medical treatment totaling \$600.00, in addition to a \$700 MRI scan on his right shoulder.

16. Plaintiff was treated by Dr. Steven Selden of Orthopedic Associates of Central Connecticut.

17. Plaintiff was treated by Hartford Cardiac Lab (Dr. Daniel Fram and Dr. Chunguang Chen).

18. Plaintiff was treated by a physical therapist (who is the Plaintiff's sister-in-law and rented space from Defendants).

19. While the lease contains an indemnification clause in favor of Defendants for personal injury, Plaintiff was released from the terms of the lease on December 12, 1994.

20. This release was given in the course of the

settlement of an eviction action and at a time Defendants knew (or should have known) about the fall.

21. Plaintiff is entitled to recover from Defendants \$9,000.00 plus costs as damages.

Houston Putnam Lowry, Esq.
Arbitrator

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was mailed on this 26th day of October, 1999 to:

Samuel B. Feldman, Esq.
433 South Main Street - Suite 301
West Hartford, Connecticut

Kenny, Brimmer, Melley & Mahoney
5 Grand Street
Hartford, Connecticut 06106-1505

David C. Rappe, Esq.
2181 Boston Turnpike
P.O. Box 280
Coventry, Connecticut 06238

Houston Putnam Lowry