

DOCKET NO. CV-00-0599994-S : SUPERIOR COURT  
NADIA DOMINGUEZ : JD OF HARTFORD  
VS. :  
THOMAS KILIBREW, ET AL : MARCH 3, 2003

ARBITRAL AWARD

After hearing the parties on February 21, 2003, I find the following facts:

1. Defendant Thomas Kilibrew leased the premises commonly known as 1630 Main Street #809, Hartford, Connecticut pursuant to a written lease.<sup>1</sup>

2. The premises are commonly known as the S.A.N.A. Apartments.

3. While the lease indicates Barbara J. Tolerico is the owner of the premises, the premises are actually owned

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<sup>1</sup> Defendants' Exhibit 1.

by Defendant South Arsenal Neighborhood Associates (a limited partnership).<sup>2</sup>

4. Defendant Winn Management Corporation managed the premises.<sup>3</sup>

5. Plaintiff Naida Dominguez f/k/a Naida Nicely<sup>4</sup> was a nurse's aide employed by AA Homecare and Nursing, Inc. to provide assistance to Defendant Thomas Kilibrew, a paraplegic confined to a wheelchair.

6. On June 18, 1998, Plaintiff Naida Dominguez was stuck in the face by a falling temporary plastic shelf in Defendant Thomas Kilibrew's bathroom while cleaning up after giving him a shower.

7. Plaintiff Naida Dominguez went to the Saint Francis Hospital emergency room, where she was x-rayed for possible broken facial bones (there were none).

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<sup>2</sup> Defendants' answer to complaint count three, paragraph one.

<sup>3</sup> Defendants' answer to complaint court two, paragraph two.

8. According to the emergency room encounter form, Plaintiff Naida Dominguez reported a "dot" of blood above her upper lip.

9. Plaintiff Naida Dominguez also complained of residual neck pain.

10. She consulted Dr. Stephen R. Pedro of the Hartford Chiropractic Group.

11. Plaintiff Naida Dominguez was awarded a five percent permanent partial disability to her cervical spine by Dr. Pedro on December 18, 1998.

12. While Plaintiff Naida Dominguez subsequently suffered a car accident on June 13, 1999, this is **AFTER** Dr. Pedro assigned the disability rating.

13. Defendant Thomas Kilibrew did not appear in this action. Defendant South Arsenal Neighborhood Associates and

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<sup>4</sup> Plaintiff has since married.

Defendant Winn Management Corporation appeared at the hearing to defend their interests.

14. Plaintiff Naida Dominguez incurred the following medical expanses related to this injury, all of which were covered by worker's compensation:

a.	St. Francis Hospital	\$ 296.67
b.	Radiology Associates	76.00
c.	Hartford Chiropractic	3,145.00
d.	Neurology Associates	<u>250.00</u>
	TOTAL	\$3,767.67

15. All of Plaintiff Naida Dominguez's lost wages were covered by worker's compensation.

16. Defendant South Arsenal Neighborhood Associates and Defendant Winn Management Corporation had no obligation to maintain the interior of Defendant Thomas Kilibrew's apartment, even though yearly inspections were made.

17. The plastic shelves mounted on spring loaded poles were not such a defect that the apartment was rendered uninhabitable.

18. This means Defendant South Arsenal Neighborhood Associates and Defendant Winn Management Corporation have no liability to Plaintiff Naida Dominguez on this claim.

19. The allegations against Defendant Thomas Kilibrew are deemed admitted because he failed to appear and controvert them. The court will not *sua sponte* raise any possible defenses on his behalf, especially without prior notice to Plaintiff Naida Dominguez.

20. Plaintiff Naida Dominguez has no diminished earning capacity because she continues to work as a certified nursing assistant at Saint Francis Hospital.

Judgment shall enter:

1. In favor of Plaintiff Naida Dominguez and against Defendant Thomas Kilibrew in the amount of \$5,000.00 in count one.

2. In favor of Defendant Winn Management Corporation and against Plaintiff Naida Dominguez on count two.

3. In favor of Defendant South Arsenal Neighborhood Associates and against Plaintiff Naida Dominguez on count three.

Dated at Meriden, Connecticut on this 3<sup>rd</sup> day of March, 2003.

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Houston Putnam Lowry  
Arbitrator

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was mailed on this 3<sup>rd</sup> day of March, 2003 to:

Thomas Kilibrew  
1630 Main Street #809  
Hartford, Connecticut 06106

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