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Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

Fla. Justices Reinstate Law Firm's \$1.2M Chair Injury Judgment

By **Linda Chiem**

Law360, New York (October 25, 2013, 3:59 PM ET) -- The Florida Supreme Court on Thursday reinstated a \$1.2 million final judgment awarded to a prospective client of a Florida personal injury law firm who sat in a chair that collapsed during a meeting with an attorney at the firm.

In a 4-2 ruling, the high court quashed the Fourth District Court of Appeal's decision vacating the earlier 2009 award for plaintiff Robert Friedrich after holding that he hadn't established causation in his negligence suit against Fetterman & Associates PA for injuries he suffered when the conference room chair he was sitting in collapsed out from under him during a 2003 meeting.

The high court said the Fourth District erred when it reversed the trial court's \$1.2 million final judgment for Friedrich, and his wife Heather Friedrich, and instead issued a directed verdict in favor of the law firm in 2011, saying the appeals court had impermissibly reweighed the testimony of expert witnesses from the trial.

Specifically, the appeals court improperly issued the directed verdict for the firm after considering conflicting testimony from experts on whether the firm should have conducted an inspection on the chairs that would have discovered a dangerous condition. Friedrich's chair was found to have had a weak joint in its rear right side, according to court documents.

"Based on the conflicting testimony above, whether the weak joint in the chair would have been discovered if Fetterman had a procedure in place to inspect the chair was ultimately an issue to be determined by the jury," the court said.

"In this case, there is sufficient 'proof that the negligence probably caused the plaintiff's injury,' such that the trial court did not err in denying Fetterman's motion for a directed verdict," it added. "The Fourth District reweighed the evidence and substituted its judgment concerning credibility of the witnesses for that of the trier of fact."

However, Chief Justice Ricky Polston, who was joined by Justice Charles Canady, dissented, saying the appeals court decision to reweigh the evidence did not expressly or directly conflict with the Supreme Court's holdings in *Cox v. St. Joseph's Hospital* or *Gooding v. University Hospital Building Inc.*, as the majority held.

In December 2003, Friedrich met with an associate of the Fetterman firm seeking possible legal representation after he was involved in a car accident earlier that month. The conference room chair that Friedrich was sitting in collapsed, causing him to fall backward, hit his head and land on the floor, according to the opinion.

After the chair collapse incident, Friedrich complained of worsening headaches and neck pain, severe back pain, extremity numbness and sleep disturbances, and later underwent spinal fusion surgery in 2006. He later sued Fetterman for negligence on the grounds that Friedrich was a business invitee and that Fetterman had negligently failed to warn Friedrich of the chair's dangerous condition. After a six-day trial, a jury awarded Friedrich \$2.2 million and the court issued an amended final judgment for approximately \$1.2 million against Fetterman.

Friedrich's attorney Rebecca Mercier Vargas of Kreuzler-Walsh Compiani & Vargas PA told Law360 on Friday that she was happy with the ruling.

"We are really thrilled for our client [because] it has been a very long process, since 2003, that he has been trying to get compensation for these serious injuries that ultimately included a spinal fusion and he's been living with a lot of pain for a very long time," she said.

Counsel for Fetterman could not be immediately reached for comment Friday.

Friedrich is represented by Rebecca Mercier Vargas and Jane Kreuzler-Walsh of Kreuzler-Walsh Compiani & Vargas PA and Scott B. Smith and Margaret M. Bichler of Lytal Reiter Smith Ivey & Fronrath.

Fetterman is represented by Elizabeth K. Russo of Russo Appellate Firm PA and Daniel C. Methe and Kara Berard Rockenbach of Methe & Rockenbach PA.

The case is Friedrich v. Fetterman & Associates PA, case number SC11-2188, in the Supreme Court of Florida.

--Editing by Andrew Park.

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