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NEWS

30 Depositions, \$15M Settlement: Litigators Outline Their Strategy

"After nearly 30 depositions and three separate defense firms cycling through the case, we were finally able to get the case resolved for an amount that honored the impact of the assault on two innocent women's lives," said plaintiff counsel Andrew T. Rogers of Deitch + Rogers in Atlanta.

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Premises Liability



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Litigation Reporter



What You Need to Know

- Atlanta litigators reach a confidential \$15 million settlement in a premises liability dispute involving an apartment complex.
- Eight-figure settlement resolves apartment complex operators' liability after female roommates assaulted at knifepoint by an intruder.
- Attorneys with Deitch + Rogers, Edmond & Lindsay, Prioleau, Milfort & Rivers and Bondurant Mixson & Elmore collaborated on behalf of plaintiffs.

After three years of litigation, Atlanta attorneys with Deitch + Rogers have obtained a confidential \$15 million settlement for a pair of clients in an underlying premises liability dispute.

Andrew T. Rogers, Gilbert H. Deitch, Michael D'Antignac and Kara E. Phillips joined forces to help secure the eight-figure outcome for two Georgia women assaulted by an intruder inside their apartment at knifepoint.

Plaintiff counsel credit their ability to reach a resolution with the defendants to their effective ability to convey how a jury might decide.

"[W]e conducted a focus group to better understand the issues in the case, including how a jury might value the case," Rogers told the Daily Report.

'Through a Locked Bedroom Window'

Because of the confidential nature of the settlement, Rogers said plaintiff counsel could not reveal specific details about their clients, the defendants, or the property at which the underlying incident occurred several years ago.

Instead, Rogers detailed that the premises liability action stemmed from “two women being burglarized, sexually assaulted and battered where they lived together in an apartment.”

“During the early morning hours an intruder broke into the women’s apartment through a locked bedroom window,” Rogers said. “Once inside the apartment and armed with a knife, the man threatened to kill the women if they did not take off their clothes and do what he demanded.”

When one of the women resisted, plaintiff counsel said the intruder stabbed her in the hand. Fearing for their lives thereafter, Rogers said both women then stripped naked at the intruder’s command.

“He then forced one of the women to perform sexual acts on the other while he masturbated in front of them,” Rogers said.

‘Failing to Install Pin Locks’

Plaintiff counsel contended that because the defendants “owned, operated and managed the apartment property prior to and at the time of the subject incident,” they bore liability for the plaintiffs’ damages. According to the plaintiffs’ team, the defendants failed to uphold their duty under Georgia law “to keep their premises safe from criminal activity and in proper repair.”

In addition to knowing of the dangers posed by criminal activity on the property that’d been in need of repairs, plaintiff counsel posited that the defendants had negligently failed to fulfill a variety of duties. For starters, Rogers said the defendants failed to assess security vulnerabilities and develop a security plan for the apartment complex.

According to plaintiff counsel, the defendants had also failed to “properly respond to criminal activity occurring at the complex, including two shootings, a Peeping Tom and an apartment break-in that all occurred during the two and a half months leading up to [the] plaintiffs’ incident.”

But plaintiff counsel said the defendants’ liability didn’t stop there.

On top of failing to notify tenants of criminal activity occurring on the premises, plaintiff counsel accused the defendants of not controlling access to the property and “failing to install pin locks on all ground-floor apartment windows, despite being aware of the need to do so.”

“Had the defendants acted reasonably by taking these steps to address the known danger of criminal activity at their apartments, plaintiffs would not have been victimized,” Rogers said.

Hurdles

After being retained by the plaintiffs, Rogers said a series of hurdles led Deitch + Rogers attorneys to litigate the case for three years before reaching a resolution.

“We had to overcome the challenge of defendants’ refusal to pay multiple, significantly lower settlement demands earlier in the case and prior to the court’s denial of summary judgment,” Rogers said. “We also had to overcome the difficulty on the part of the defendants and their carriers to understand the true extent of our clients’ injuries and damages.”

Because neither plaintiff had been raped by the intruder, plaintiff counsel said opposing counsel challenged the nature and extent of the women’s damages.

To overcome the obstacle, plaintiff counsel hired qualified experts to help develop liability and damages evidence. Plaintiff counsel said the experts’ qualifications, methodology and opinions had been “very difficult to challenge.”

Plaintiff counsel also strengthened their clients' damages case by consulting a focus group in hopes of better understanding how a jury might value the matter.

"We then engaged a very active and determined mediator who was very effective at communicating our intent to have a jury decide the case if an agreement for the appropriate settlement amount couldn't be reached," Rogers said. "Most importantly, our clients stood firm and ready to go to trial until defendants agreed to pay an acceptable amount to settle the case."

Because of the venue where the matter was pending, Rogers said plaintiff counsel felt confident that jurors "would clearly appreciate the seriousness and permanence of their mental and emotional injuries and suffering and would act accordingly."

Having leveraged that confidence during mediation with opposing counsel, plaintiff counsel succeeded at reaching a settlement about a month before a specially set trial had been scheduled to begin.

"Nothing about it was easy," Rogers said. "At the first mediation, which was conducted just after the complaint was filed, the defendants made no effort to settle the case. After nearly 30 depositions and three separate defense firms cycling through the case, we were finally able to get the case resolved for an amount that honored the impact of the assault on two innocent women's lives."

Obtaining the settlement after several years of litigation made plaintiff counsel "extremely happy" for their clients, who Rogers described as being "very deserving." Plaintiff counsel applauded the women for showing "remarkable resolve and patience" throughout the duration of the dispute.

'Assembled a Remarkable Team'

With the matter now settled and the underlying case dismissed and closed, Rogers noted the role teamwork played in reaching a favorable outcome for the plaintiffs.

"We assembled a remarkable team to achieve this result," Rogers said.

Rogers pointed out that he and his Deitch + Rogers colleagues partnered with Atlanta litigators Keith Lindsay of Edmond & Lindsay and DeAndre Rivers of Prioleau, Milfort & Rivers early in the case.

Plaintiff counsel also connected with Bondurant Mixson & Elmore partner Naveen Ramachandruppa to assist with the motion practice and potential appellate issues, as well as trial consultant DeAnn Sinrich of Sheldon Sinrich in Atlanta.

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