

COPY



CERTIFIED
CLERK OF THE COURT: AG
DATE: 10-03-11 P01:54 FILE
INTERTRIBAL COURT OF SOUTHERN CALIFORNIA
45002 GOLSH ROAD
VALLEY CENTER, CA 92082

RINCON BAND OF LUISENO INDIANS TRIBAL COURT

Intertribal Court of Southern California

PATRICIA WATSON

Plaintiff,

vs.

HARRAH'S RINCON CASINO AND RESORT;
RINCON BAND OF LUISENO INDIANS,
and DOES 1 to 25 inclusive,

Defendants.

Case No. Rincon-03412009

FINDINGS AND ORDER AFTER HEARING

This matter came regularly before the Intertribal Court of Southern California in and for the Rincon Band of Luiseno Mission Indians on September 19, 2011, the Honorable Anthony Brandenburg, Chief Judge, presiding. Appearing on behalf of the plaintiff, Ms. Patricia Watson, was Attorney David R. Coffman. Appearing for the defendants, Harrah's Rincon Casino and Resort and the Rincon Band of Luiseno Indians was Attorney, Ronald Giusso.

Pursuant to an agreement by the parties and with the approval of the Court the case was bifurcated in that the only issue at trial was that of the possible liability of defendants.

BRIEF HISTORY OF THE CASE

Ms. Watson a 67-year-old resident of Kingman Arizona was a guest at the Casino. She had received a four-day complementary promotional package from Harrah's inviting her to the

1 Casino. Along with her sixteen-year-old granddaughter and four year old grandson, she arrived
2 at the Rincon facility at approximately 4:00 or 5:00 pm on the afternoon of July 28, 2008.
3 Following her check in at the hotel both she and her guest took the elevator to their assigned
4 hotel room. A short time later Ms. Watson exited the hotel room leaving her grandchildren in
5 the room and took the hotel elevator down to the lobby to get some food for the children. Upon
6 exiting the elevator lobby and turning left to go to the casino floor she testified she did not see
7 any water (liquid) on the tile, which leads from the elevator lobby to the reception area then to
8 the casino floor. Approximately 35 to 45 minutes later Ms. Watson testified she was carrying a
9 bag containing two soft drinks in one hand and another bag in her other hand contained two
10 burgers and fries as she entered the elevator lobby. Upon doing so she testified she slipped on
11 the tile floor due to a liquid on the tile then hit the left hand side of the wall in the elevator lobby
12 as if she had "been hit by a linebacker." Ms. Watson thus claims as a result of the slip and
13 subsequent fall she incurred a "fractured left clavicle and associated right lunar nerve damage"
14 for which she now seeks damages.
15

16 REVIEW OF TESTIMONEY AT TRIAL

17
18 Ms. Watson's testimony on direct examination was that as she "turned right" to enter the hotel
19 elevator lobby "some 35 to 40 minutes following her initially leaving that same lobby, she was
20 "hit like a football player" therein describing her fall. She stated additionally it appeared that as
21 she fell she attempted to break her fall with her hand, and then hit the wall sustaining the injury
22 as mentioned above. She claims there had been a liquid; probably water, on the floor which
23 caused the fall. Following her fall she claimed her pant leg "was wet" with a liquid. As to the
24 type of liquid she was not sure and that there was a "skid mark" on the tile following her fall.
25 While she said there were witnesses there were no witness' to be had or that testified as to

1 viewing the fall. She thus claimed that security had "cleared the area." She did not know how
2 long it took but a security guard arrived "a black man" was first on the scene. Testimony later
3 showed this person was the EMT Mr. Cochran a ten-year employee of the casino.

4 When Ms. Watson was questioned as to the type of footwear/shoes she was wearing there was
5 some confusion. The best the court could glean by way of testimony was they were some sort of
6 rubber slip on sandal type shoes or what is commonly referred to as "flip-flops." Ms. Watson
7 testified the shoes had been discarded some time ago and were thus unavailable for examination.

8 The next question that was left in dispute and unclear to the court was what had happened to the
9 liquid/sodas that were in the bag Ms. Watson was carrying. Testimony showed the drinks were in
10 a standard type Styrofoam cups with plastic lids inside a paper bag. However, when brought to
11 the room following the incident her granddaughter testified Ms. Watson had them in her hands
12 and there was no bag to be found. The court felt it only reasonable to assume that subsequent to
13 such a fall as described by Ms. Watson it would be therein very likely the drinks would spill. An
14 unanswered question was what happened to the bag the sodas were in? Was it wet because of a
15 spill? Who removed it from the bag?
16

17 This then brings us to the question of the wet floor as alleged by Ms. Watson. The only person
18 other than Ms. Watson to testify as to the floor being wet was the EMT, Mr. Cochran and he
19 testified the only liquid he saw was next to Ms. Watson who was sitting against the wall partially
20 on a 12 inch strip of tile which borders a full size rug covering almost all of the elevator corridor.
21 No one other than Ms. Watson saw any liquid on the tile entryway leading to the elevator lobby
22 nor was there any record of any clean up crew being called to clean up any liquid on the floor in
23 that area.
24
25

1 There was additional testimony from at trial from plaintiff's witness Mr. Jose Lopez the hotel
2 environmental service manager. Mr. Lopez testified that there is a locker room within 100 to
3 150 feet of the elevator lobby. However, it does not have a whirlpool bath or anything similar
4 where by one might drip or spill water in the area of the elevators. He also testified that the
5 swimming pool had closed approximately one and a half hours earlier and that he doubted any
6 water could have come from the pool area as there were no reports for a clean up and Ms.
7 Watson during that one and one half hour did not see any liquid on the tile prior to her fall.

8 DECISION

9
10 Following an extensive review of the testimony and exhibits presented in this case the court is
11 left with a series of unanswered questions. While witnesses presented by the plaintiff appeared
12 both forthright and credible and while there is no doubt Ms. Watson did slip and did fall resulting
13 in an injury testimony failed to convince the court either the tribe or the casino management were
14 at fault. In short the plaintiff failed to convince the court that in fact a dangerous condition did
15 exist at the time of the incident and or that if in fact it did the defendant knew or should have
16 known of its existence. While the defendant argued the standard of proof in the matter was clear
17 and convincing the court following its deliberation feels even the lesser standard of a simple
18 preponderance of evidence was not met. The court is thus left with the finding that the defendant
19 tribe and casino performed their duty and maintained the premises in a reasonably safe manor.

20 JUDGEMENT IS FOR THE DEFENSE.

21
22 **IT IS SO ORDERED.**

23 Dated this Thursday, September 29, 2011

24 

25 Hon. Anthony J. Brandenburg

Chief Judge of the RINCON BAND OF LUISENO INDIANS