

LAW CURRENTS An informational newsletter from Richard A. Klass, Esq.

Summer 2010

The \$1.2 Million Shopping Disaster

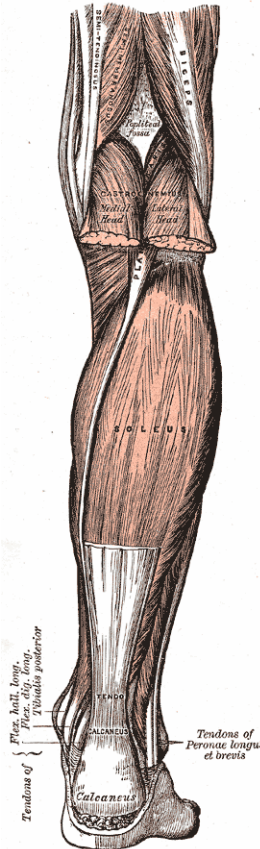
At her local supermarket, a shopper bought her groceries and started to walk out the front door of the market with her cart. As she walked out, the entire door at the exit came unhinged from the frame and slammed down on her. The door managed to slice off the rear portion of her leg, taking out part of her calf. The result was a painful ordeal, requiring extensive medical treatment.

The shopper decided to retain *Richard A. Klass, "Your Court Street Lawyer,"* to pursue her claim for personal injuries based upon the negligence of the supermarket. An action was brought in the Supreme Court, Kings County against the supermarket, alleging negligence for the fallen door.

Res Ipsa Loquitur:

The Latin term "Res Ipsa Loquitur" means the "thing speaks for itself." It refers to the legal principle that a court may infer negligence when the nature of the accident is such that it would ordinarily not happen without negligence. In New York, the general rule is that an injured party can establish this claim against the defendant/liable party by proving three elements:

1. The event must be of a kind which ordinarily does not occur in the absence of someone's negligence;
2. It must be caused by an agency or instrumentality within the exclusive control of the defendant; and
3. It must not have been due to any voluntary action or contribution on the part of the plaintiff.



Dermatossian v. New York City Transit Authority, 67 NY2d 219 [1986].

The circumstances of this injury fit well within the doctrine of *res ipsa loquitur*. It certainly could be said that doors to supermarkets do not completely come unhinged without negligence.

Structured Settlement:

On the eve of trial, the defendant was eager to settle the case, given the likelihood that a charge of *res ipsa loquitur* would be given. The parties discussed settlement in terms of a "structured settlement," which would allow the defendant's insurance carrier to pay less money but would maximize the money for the injured shopper.

Structured settlements are those where the settling party purchases an insurance product, typically an annuity policy, that pay the injured person a certain amount of moneys per year over a certain number of years. The benefit for the settling party is the payment of a reduced present-value amount for the policy instead of a higher lump-sum payment. It can also be attractive to an injured person since it will generally be guaranteed tax-free income payable over a period of years and allow for settlement of the claim instead of the risk of losing at trial.

The injured shopper settled the case with the defendant supermarket for \$1.2 million, with a structured settlement, which will provide her with sufficient income for a very long time.

— *Richard A. Klass, Esq.*

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New Property Registration System Helps New York City Owners

Last month, New York City went operational with its new “*Notice of Recorded Document*” System, as part of ACRIS [Automated City Register Information System]. As many people are already aware, several years ago, New York City started electronic recordation of deeds, mortgages, and other types of instruments pertaining to real estate, including buildings, houses, condominiums and cooperative apartments. ACRIS was designed to make these recorded instruments easily accessible to the public.

Now, the City Register has taken the ACRIS program a significant step forward, by introducing the *Notice of Recorded Document System*. The system allows users to log in at <http://a836-acris.nyc.gov/nrd/> and register with the website. Registrants are limited to those with an interest in the subject property, such as owners, lienors, managing agents and executors/administrators.

The user can register to receive notification by email or text of any instrument recorded against the subject property. This may be very useful in preventing deed theft, mortgage fraud or loss of interests in the property.

— Richard A. Klass, Esq.

Richard A. Klass, Esq., maintains a law firm engaged in civil litigation at 16 Court Street, 29th Floor, Brooklyn Heights, New York. He may be reached by phone at (718) COURT•ST or e-mail at RichKlass@CourtStreetLaw.com with any questions. Prior results do not guarantee a similar outcome.



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New York City Department of Finance
Office of the City Register
Automated City Register Information System
Notice of Recorded Document

Purpose

The ACRIS Notice of Recorded Document System is a registration program that is intended to provide notice to property owners when deeds, mortgages and deed- or mortgage related documents affecting an ownership interest in real property, have been recorded against a single property in the five boroughs of New York City. In addition to property owners and their agents (including child, spouse or domestic partner of owner if they are a designee), the managing agent, the property owner's attorney, the lienor, or executors/administrators of the estate of the owner or lienor of the property may register under this program. Owners of cooperative apartments and timeshare units may NOT want to register for notification as these properties do not have unique borough, block and lot identifiers and the registrant would receive notifications affecting the entire building rather than for the particular unit of interest.

The Department of Finance assumes no liability for failure to provide the requested notice of recorded documents with respect to property for which you are registering to receive notification. The City of New York, including the Department of Finance and the Richmond County Clerk, assumes no liability for fulfilling their legal duty to record documents, even if those documents are in some instances later determined to be erroneous, fraudulent or invalid.

Property Address

Property Address:

If you know the property address, complete the fields below and press "Find BBL" to find the Borough/Block/Lot of the property. Address fields indicated by an asterisk (*) are required. If the property is a Condominium Unit that has a Unit/Apartment Number, the Unit Number is required. If an address is found, the fields in the Property Borough/Block/Lot section will be populated.

Borough / County: *

House Number: *

Street Name: *

Unit/Apartment Number:

Property Borough/Block/Lot:

If you know the Borough, Block and Lot of the property, complete the fields below and press the "Find Address" button to find the address of the property. Fields indicated by an asterisk (*) are required. If the BBL is found, the fields in the Property Address section will be populated.

Borough / County:

Block:

Lot:

Above, partial screen of the new “*Notice of Recorded Document*” System, part of ACRIS, at <http://a836-acris.nyc.gov/nrd/>.

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