

## VERDICTSEARCH NEW YORK

## WESTCHESTER COUNTY

**PREMISES LIABILITY****Dangerous Condition — Slip and Fall — Housing Complex****Parking lot's gravel curb a hazard, condo resident alleged****VERDICT**            **\$450,000****CASE**                Marci Roca v. Plaza Realty Management and Oakridge Condominium Association, No. 21756/06**COURT**              Westchester Supreme**JUDGE**              Barbara G. Zambelli**DATE**                12/5/2008**PLAINTIFF**  
**ATTORNEY(S)**      Keith Sullivan, Sullivan & Galleshaw, L.L.P., Middle Village, NY**DEFENSE**  
**ATTORNEY(S)**      Mark S. Katz (lead), Mound, Cotton, Wollan & Greengrass, New York, NY (Plaza Realty Management)  
Gregory S. Hoffnagle, Mound, Cotton, Wollan & Greengrass, New York, NY (Plaza Realty Management)  
None reported (Oakridge Condominium Association)**FACTS & ALLEGATIONS** On Oct. 19, 2005, plaintiff Marci Roca, a 41-year-old unemployed woman, slipped on a gravel curb that abutted a parking lot of Oakridge Condominium, in South Salem. She fell and sustained an injury of a toe.

Roca sued the property's owner, Plaza Realty Management, and the condominium's operator, Oakridge Condominium Association. She alleged that the curb constituted a dangerous condition. The matter proceeded to a trial against Plaza Realty Management.

Roca claimed that she walked off of a walkway that led to the parking lot, crossed a grassy area, attempted to step over a gravel curb and onto the parking lot, but instead stepped onto the curb, which prevented cars from parking too close to the lawn. She contended that the gravel area constituted a hazard.

Defense counsel noted that Roca had lived in the condominium complex for about five years, and, as such, they contended that she was aware of the gravel. They claimed that the complex's residents were asked to remain on the designated walkways and pavements and not cross the grounds.

**INJURIES/DAMAGES** *foot drop; fracture, toe; neuropathy*

Roca sustained a fracture of her left foot's fifth toe. She drove to the emergency room of Norwalk [Conn.] Hospital, where she

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underwent minor treatment. An orthopedist subsequently confirmed the fracture. The doctor also opined that Roca may have been suffering residual foot drop—downward drooping of the front portion of a foot. About four weeks later, Roca underwent an electromyography, and the test revealed that she was suffering minor neuropathy of her left leg's peroneal nerve. She claimed that the condition caused her foot drop. However, her expert neurologist acknowledged that the condition has resolved.

Roca sought recovery of damages for her past pain and suffering.

During deliberations, the parties negotiated a \$600,000/\$100,000 high/low agreement.

**RESULT** The jury found that Plaza Realty Management was liable for Roca's fall, but Roca was assigned 25-percent comparative negligence. It determined that Roca's damages totaled \$450,000, all for her pain and suffering. The award was not allocated to past or future pain and suffering.**DEMAND**            \$300,000**OFFER**              \$100,000**INSURER(S)**        Apsen Specialty Insurance Co. for Plaza Realty Management**TRIAL DETAILS**    Trial Length: 3 days  
Trial Deliberations: 4 hours  
Jury Vote: 6-0 (Plaza Realty Management's liability); 5-1 (Roca's comparative negligence)  
Jury Composition: 4 male, 2 female**PLAINTIFF**  
**EXPERT(S)**        Samuel Markind, M.D., neurology, Danbury, CT (treating physician)**DEFENSE**  
**EXPERT(S)**        Rene Elkin, M.D., neurology, Bronx, NY  
Steven Ender, D.O., neurology, Bethpage, NY  
Richard Weinstein, M.D., orthopedic surgery, White Plains, NY**EDITOR'S NOTE** This report is based on information that was provided by plaintiff's counsel. Plaza Realty Management's counsel did not respond to the reporter's phone calls. Oakridge Condominium Association's counsel was not asked to contribute.

—Monica Paquette