

NEWS RELEASE

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Contact: Robert W. Johnson, President

Robert W. Johnson & Associates

FORENSIC ECONOMISTS
(800) 541-7435

LIFE ACTIVITY CALENDAR SUPPORTS JURY VERDICT OF \$1,100,000 IN FAST-FOOD SLIP & FALL

Jury awards \$1,100,000 in fast-food restroom slip & fall; the Life Activity Calendar validated plaintiff's loss of quality of life.

Palm Springs, California: Robert W. Johnson & Associates was retained to prepare a LIFE ACTIVITY CALENDAR that would be used to counter the defense assertion that plaintiff's complaints were fabricated or exaggerated.

Citation: *Nichols vs. CEO Foods, Inc., dba Jack-in -the-Box, Riverside County, California, No. 1-66449, Attorney Stephen H. Heller, Heller & Owen, Encino, California.*

Case Synopsis: Mrs. Kimberly Nichols, a 22 year old mother of one, used the ladies restroom at the local Jack-in-the-Box. While she was inside, two employees standing outside the restroom door stated in a loud voice, "It sure stinks out here. Get the spray." While Mrs. Nichols stood at the sink adjacent to the door, one employee sprayed air freshener under the door onto the restroom floor. Mrs. Nichols, standing next to the door, felt wetness on her foot and saw foam coming out from under the door. She was humiliated and embarrassed and chose to leave the restroom immediately. She took a step as she reached for the door knob and immediately slipped on the foam residue or invisible mist and landed on the concrete floor. Mrs. Nichols complained to Jack-in-the-Box store manager about the offensive behavior of the employees and her fall, but did not fill out an accident report or complain of injuries.

The initial diagnosis, the following day, was a lumbar strain. An MRI, several months later, confirmed ruptured disks at L4-5 and L5-S1. Her doctors testified that she required a diskectomy, fusion and internal fixation to stabilize her spine.

The defense contended that: (a) the fall never occurred, (b) she never told the manager she was

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hurt, (c) a few days after the fall Mrs. Nichols had fallen at home and did not tell a doctor, whom she saw five days later, that she had fallen at Jack-in-the-Box, (d) the MRI confirmed a ruptured disk but there was no nerve root encroachment, (e) there was no need for surgery, and (f) plaintiffs complaints were exaggerated or fabricated. .

Trial Presentation: The LIFE ACTIVITY CALENDAR, which was designed to illustrate the plaintiffs' loss in the quality of her life, was utilized extensively during her testimony. During the Plaintiff's testimony, the LIFE ACTIVITY CALENDAR was introduced to graphically depict her activities before the accident and the activities which had been eliminated or reduced in frequency post-accident. Her husband testified how his wife's ability to do normal activities, from bicycling, to picking up their two year old, to even attending church; had been drastically reduced or totally eliminated.

Attorney Comments: "When I placed the LIFE ACTIVITY CALENDAR in front of the jury you could hear them groan. They saw how the color had been drained from the plaintiff's life. The defense's cross-examination was non-existent. The LIFE ACTIVITY CALENDAR buttressed my client's creditability."

Results: The defense offered nothing. Plaintiff demanded \$300,000 (statutory pre-trial offer of compromise). The jury, after 2 hours of deliberation awarded \$930,000 plus \$186,000 in prejudgment interest for a total of \$1,116,000.

About Robert W. Johnson & Associates: A nationally recognized full service consulting firm that specializes in illustrating and quantifying non-economic damages. Consulting services include quantifying the loss of enjoyment of life (pain and suffering) in a personal injury case; quantifying the loss of love, care, comfort, society, consortium, etc. to the survivors in a wrongful death case; illustrating, with the LIFE ACTIVITY CALENDAR, the loss of enjoyment/ quality of life; analyzing structured settlements; and generating wage loss reports that include the present value of future medical expenses.

For more information, telephone Robert W. Johnson & Associates at 1-800-541-7435

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