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School Slip-and-Fall Case Settles for \$5M

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Of the Legal Staff

A woman who slipped on flooring glue in the school where she worked, sustaining debilitating back injuries, has settled her case against a contracting company for \$5 million.

Maria Mangano, the director of career services at Mercy Vocational High School, sued Wargo Floors Inc. as well as a school board member and school maintenance adviser, James Clearkin, claiming the injuries she sustained while the school's floors were being redone over the summer of 2012 prevent her from holding a job.

According to Mangano's attorney, Ken Fulginiti of Duffy + Partners, the case settled before going to trial in Philadelphia Court of Common Pleas Judge Lisa M. Rau's courtroom.

"It's a sad case because Maria had been injured in 2000 which set her back a little bit. In 2008 and 2009, she went back and got her master's degree so she could be in education," Fulginiti said. "She slips and falls and she is stripped of her ability to be an educator—as bad as her injury was, that is probably the worst thing."

In Mangano's court papers, the plaintiff claimed that a Wargo employee asked her to unlock a door near an area where they had put down a slippery adhesive, unbeknownst to her.

"Mrs. Mangano was led to the area by the Wargo employee, who advised exactly which door she needed to unlock, and watched as she step[ped] into, and slipped on, the very adhesive they just spread without uttering a word to her about the adhesive or its slippery condition," court papers said.

Mangano fell backward and landed on her back and hips. Court papers said she was in immediate pain.

Steve Pursel, the most senior Wargo employee on the job, had never seen the company's safety



KEN FULGINITI

manual nor had he been aware of its existence, court papers said.

"The reason Pursel was unaware that Wargo had a safety manual, was because Wargo never used it," court papers said. "Wargo had a safety manual prepared because it seemed 'reasonable' to have one, but when they realized it would require too much time to implement the policies, they abandoned the manual altogether."

Court papers also said Pursel had not been trained on when to use caution tape, barricades or cones.

Additionally, Pursel did not warn Mangano not to go into the slippery area, nor did he recall having any conversation with Mangano at all before she fell, court papers said.

"Pursel claims that he placed his arm out in front of Mrs. Mangano as if to provide some sort of generic 'warning,'" court papers said. "However, Pursel is the only one who saw this. [Steve] Suwala, his co-worker, who was looking at Pursel and saw Mrs. Mangano fall, did not see Pursel's arm out."

Wargo's attorney, Mark T. Riley of Marshall Dennehey Warner Coleman & Goggin, did not return a call seeking comment.

Wargo alleged in its pretrial memorandum that

Clearkin was liable because his own construction company, named James J. Clearkin Inc., supervised the project.

It was Clearkin's responsibility, defense papers said, to maintain control over the job site by warning people passing through the hallways of the potential hazards in the construction zones.

Wargo pointed to an email sent from Peter Clearkin of the Clearkin company to Wargo, which stated that Clearkin Inc. was managing the project.

According to defense papers, Wargo's founder testified as to Clearkin Inc.'s role, "'To me they were the general contractor even though we were billing Mercy Vocational directly and we weren't a subcontractor to James J. Clearkin. They solicited the pricing, he wrote the email approving the pricing, his employee, Pete, is an executive of Clearkin, he was on-site managing the job. To me we were working for Clearkin.'"

Clearkin's attorney, Lloyd G. Parry of Davis, Parry & Tyler, said his client did not contribute to the settlement.

"Our position in the case was that Clearkin was not the general contractor on that job. We were in a very unusual situation, where Jim Clearkin, CEO of Clearkin Inc., was on the board of Mercy Vocational and was really dealing with the Wargo flooring work as a representative of Mercy Vocational," Parry said. "Legally speaking the corporation had no liability because it had no role in the flooring work done by Wargo. Happily enough, plaintiff's counsel recognized that."

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