

# Verdicts & Settlements Final Preview

RESULT DATE: May 19, 2016

Frank Rivera v. The Ensign Group Inc., Bella Vista Transitional Care Center (14CV0319)

16-JV\_2438

**Hon. Barry T. La Barbera**  
**San Luis Obispo Superior**

TOPIC: Personal Injury

SUB TOPIC: Worksite Accident

FURTHER DESCRIPTION: Failure to Maintain and Inspect Ladder

VERDICT: \$2,220,395

## ATTORNEY:

Plaintiff - Joel Krissman (Krissman & Silver LLP, Long Beach).

Defendant - Robert C. Shephard (Ensign Services Inc., Mission Viejo).

## MEDICAL:

Plaintiff - Lawrence A. Feiwell, M.D., orthopedic surgery, Los Alamitos; Alexander Francini, M.D., pain medicine, Long Beach; Carol R. Hyland, C.D.M.S., C.L.C.P., vocational rehabilitation and life care planning, Lafayette.

## TECHNICAL:

Plaintiff - Mack A. Quan, Ph.D., mechanical engineering, El Segundo.

**FACTS:** Plaintiff Frank Rivera was a part of a two-man crew working on defendant's transitional care premises doing an inspection/service of the fire alarms. Plaintiff fell off defendant's extension ladder approximately 12 feet while attempting to climb to the roof.

**PLAINTIFF'S CONTENTIONS:** Plaintiff claimed that defendant's maintenance supervisor set up the extension ladder in an unsafe manner. Plaintiff also claimed that defendant failed to properly maintain and inspect the ladder, all of which violated industry and OSHA standards and contributed to the accident. Plaintiff further claimed that plaintiff's injuries and damages all were directly caused by the accident.

**DEFENDANT'S CONTENTIONS:** Defendant claimed that the accident was caused solely by plaintiff and his employer, by failing to properly train plaintiff regarding proper ladder use and inspection. Also that the ladder set-up and condition was not unsafe and did not contribute to the accident. Further, that plaintiff and his supervisor had their own ladder on the work truck that could have been used to access the roof.

On damages, defendant contended that plaintiff was not totally disabled and could have and should have returned to work prior to trial.

**INJURIES:** Plaintiff suffered bilateral heel fractures and other foot fractures requiring surgery and follow-up surgery for hardware removal. Plaintiff had four operative procedures to his feet before trial. Plaintiff also sustained a non-operative L4 compression fracture.

**JURY TRIAL:** Length, 10 days;

**SETTLEMENT DISCUSSIONS:** Defendants failed to pay their \$1 million policy limits pursuant to a CCP section 998 Offer to Compromise sent by plaintiff in August 2015.

**RESULT:** Plaintiff's verdict for \$2,220,395. Approximately \$2.1 million net to plaintiff after adding prejudgment interest, post-judgment interest, costs, expert witness fees and contribution from the workers' compensation carrier.

**OTHER INFORMATION:** FILING DATE: June 16, 2014.