

VERDICT: \$301,275 - INVASION OF PRIVACY

VENUE: Worcester County, MD  
COURT: Circuit Court

TOPIC: Privacy - Videotaping Guest in Shower - Punitive Damages

VERDICT: \$ \$301,275. Breakdown: \$101,275 in compensatory damages and \$200,000 in punitive damages.

DATE OF VERDICT: 01/2005  
JUDGE: Thomas C. Groton

PLAINTIFF ATTORNEY(S):  
Douglas E. Fierberg, Washington  
Peter A. Holland, Annapolis

DEFENDANT ATTORNEY(S):  
Ernest I. Cornbrooks III, Salisbury  
Cynthia Brubaker MacDonald, Salisbury

AGE: 27  
SEX: F  
OCCUPATION: Nurse  
MARITAL STATUS: Married

FACTS:

A woman was videotaped without her consent while showering at the home of a family friend. The woman claimed the video was an invasion of her privacy and that the host was negligent in failing to provide a safe premises. The host contested liability and also disputed the alleged damages asserted by plaintiff. A Worcester County jury awarded the woman \$301,275, which included \$200,000 in punitive damages.

Plaintiff Heather Bradbury and her husband were visiting the home of Defendant Alan Kendrick. Unknown to plaintiff, defendant had arranged a video camera to record her while she was in the shower. The videotape was discovered by another party and turned over to the police.

Defendant pled guilty in a criminal court for violations of the Maryland Video Surveillance Statute.

Plaintiff alleged that defendant violated her privacy and created an unsafe environment by placing the hidden camera in her bathing area. She claimed that he was negligent in failing to provide a safe premises for his guests.

Defendant admitted that he videotaped plaintiff without her consent, but still contested liability and also claimed that plaintiff suffered no tangible damages.

ALLEGED INJURY:  
Post-traumatic stress disorder (PTSD) requiring psychological counseling. Plaintiff claimed \$1,275 in past medical expenses and no lost wages.

JURY DELIBERATIONS: 2 hours

SETTLEMENT EFFORTS: Last Demand: \$100,000 Last Offer: \$50,000 INSURANCE

CARRIER: Allstate

EXPERT WITNESSES:

Plaintiff:

Ellen G. McDaniel, M.D. - Forensic Psychiatrist - Columbia, MD

Katherine Wingate, L.S.W. - Social Worker - Annapolis, MD

Defendant:

None

CASE CAPTION:

Heather Bradbury v. Alan Kendrick

CASE NUMBER: 23 C 02 000089

VERDICT: \$150,685 - HEARING AID FITTING MATERIAL LEFT IN EAR

VENUE: Anne Arundel County, MD  
COURT: Circuit Court

TOPIC: Professional Services - Hearing Aid - Mold Material Left in Ear

VERDICT: \$ \$150,685 against both defendants. Breakdown: \$16,665 for medicals; \$9,020 for lost wages; and \$125,000 for non-economic damages.

DATE OF VERDICT: 11/20/2003  
JUDGE: Paul A. Hackner

PLAINTIFF ATTORNEY(S):  
Peter A. Holland, Annapolis  
Denis J. Murphy, Annapolis

DEFENDANT ATTORNEY(S):  
Steven R. Silberman, Towson

AGE: 55  
SEX: F  
OCCUPATION: Registered Nurse  
MARITAL STATUS: Married

FACTS:

A Miracle Ear hearing aid customer sought damages after an employee left hearing aid mold residue in her ear which had to be surgically removed. Defendant denied negligence, but the jury returned a verdict in favor of plaintiff in the amount of \$150,685.

Plaintiff Barbara Dudnanski was prescribed a hearing aid by her ENT specialist. She went to Defendant Custom Hearing Instruments (Miracle Ear) to be fitted for the device. She was assisted by a limited licensed hearing aid dispenser, Defendant Ron Perkins, who prepared a hearing aid impression mold with silicone material which he placed in her ear. Within an hour of returning to her home, she complained to her husband that her ear hurt. With an ordinary small household flashlight, plaintiff's husband was reportedly able to distinguish a blue/green material with his naked eye. Plaintiff identified the material as residue from the silicone molding material that Perkins had used to make the hearing aid. Two surgeries by an ENT specialist were required to remove the silicone material and plaintiff missed 10 weeks of work.

Plaintiff alleged that Defendant Perkins: (1) did not look inside her ear after taking the mold impression; (2) commented that it was the hardest mold he ever had to do; and (3) did not seem to know what he was doing. Plaintiff argued that Perkins should have been able to see the residue in her ear with his naked eye, as her husband was able to do. Plaintiff further claimed that Perkins was inadequately trained and had no history of doing hearing aid impressions, contrary to the 500 that he claimed to have made. Perkins was required by state licensing laws to be supervised for 20 days after his licensing, which he allegedly never received.

Defendants contended that Perkins had, in fact, done 500 mold impressions and he was adequately trained and supervised. They also argued that plaintiff had a hidden pocket in her ear where the mold was found. Defendant Custom Hearing and Perkins denied any negligence and attempted to argue that plaintiff assumed the risk by purchasing a hearing aid, was contributorily negligent by not stopping Perkins during the fitting if she was uncertain about his qualifications and signed a waiver that released defendants from liability.

The jury found Perkins negligent in rendering services and that Custom Hearing was liable for his actions.

ALLEGED INJURY:

Mold residue from a hearing aid was left in plaintiff's ear increasing her risk of infection and preventing her from wearing a hearing aid. Plaintiff underwent two surgeries to remove the silicone residue, which resulted in residual scarring and an enlarged ear. She was off work for 10 weeks and sought \$16,665 in medicals and \$9,020 in lost wages, plus pain and suffering.

JURY DELIBERATIONS: 2 hours

SETTLEMENT EFFORTS: Last Demand: \$100,000 Last Offer: None INSURANCE CARRIER: Harleysville

EXPERT WITNESSES:

Plaintiff:

Lawrence R. Lustig, M.D. - Otolaryngologist - Ellicott City, MD  
Tara Parson-Grant - Audiologist - Baltimore, MD

Defendant:

Barry S. Tatar, M.D. - Otolaryngologist - Glen Burnie, MD

CASE CAPTION:

Barbara A. Dudnanski v. Custom Hearing Instruments, Inc. and Ron Perkins  
CASE NUMBER: C200280366

EDITOR'S NOTE:

Per plaintiff attorney, plaintiff was a very credible witness and the jury could not understand why this case went to trial since liability seemed clear. A potential juror reportedly asked during voir dire, "If they left it in her ear, why are we here?"

VERDICT: \$148,250 - REAL ESTATE PROPERTY FLIPPING

VENUE: Baltimore City, MD  
COURT: Circuit Court

TOPIC: Fraud - Real Estate Contract - Flipping

VERDICT: \$ \$148,250. Breakdown: \$100,000 in punitive damages; \$15,000 for fraud; \$13,200 for payments made under the contract; \$6,300 for negligent misrepresentation; and \$13,750 for unfair and deceptive trade practices.

DATE OF VERDICT: 09/26/2001  
JUDGE: William D. Quarles

PLAINTIFF ATTORNEY(S):  
Peter A. Holland, Annapolis

DEFENDANT ATTORNEY(S):  
Robert Taylor, Jr., Baltimore

FACTS:

Defendant John Edwards, as the personal representative of a decedent's estate, sold a house from the estate to himself and his wife for the appraised value of \$8,500. Six months later, plaintiffs and defendants entered into a Rental Agreement to Buy. The Agreement listed the purchase price of the property as \$49,500. Plaintiffs pursued this lawsuit after learning through a separate case that defendants did not have clear title to the property. (See Editor's Note.)

Plaintiffs alleged that: (1) the nature of the Rental Agreement to Buy was that of a Land Installment Contract, entitling them to recover payments made under the contract; (2) defendants fraudulently induced them to enter into the contract by failing to disclose that they did not have good title to the house and inflating the value of the property, ("flipping"); and (3) defendants failed to disclose sewer line problems, which they failed to repair as promised under the contract.

Defendants contended that: (1) plaintiffs entered into a rental agreement, not a land installment contract; (2) defendants did not commit fraud; and (3) repairs were made to the sewer line as agreed under the contract.

ALLEGED INJURY:

Breach of contract, fraud and misrepresentation as to the ownership, value and condition of real estate ("flipping").

JURY DELIBERATIONS: 1 hour

CASE CAPTION:

Marvin Farley and Margaret Farley v. Pauline Edwards and John Edwards  
CASE NUMBER: 241-C-00-000716

EDITOR'S NOTE:

It was discovered that the original owner had arranged in her will that the house be transferred to a local domestic abuse organization (the House of Ruth). A lawsuit filed by the House of Ruth was settled. Defendants paid \$10,000 to the House of Ruth in exchange for a quitclaim deed. Pursuant to the Maryland Attorney General's office, a "flipper" is someone who buys a house cheap and then sells it to an unsuspecting home buyer for a price that far exceeds its real value.

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