

**DEFENSE VERDICT -- NOT GUILTY -- RETRIAL
OF CASE WHERE AGENCY STATUS AT ISSUE**

TRIAL ATTORNEYS: **MICHAEL E. KUJAWA & MATTHEW H. WELLER**
JUDGE, JAMES & KUJAWA, LLC

INSURANCE COMPANY: **INDIANA INSURANCE CO.**
DONNA A. STULL

(04 Jn/13) PREMISES LIABILITY-- RETRIAL OF CASE WHERE AGENCY STATUS AT ISSUE (8)

Karen Kaucnik v Leno's Sandwich Restaurant & Catering, Inc. 97L-1066 Tried Nov. 28-Dec. 3, 2003

VERDICT: Not Guilty (Special Interrogatories: Was pltf's alleged intoxication the sole proximate cause of her injury? "No." Was Scott Dolan acting as the agent and/or employee of Leno's Sandwich Restaurant & Catering, Inc. at the time of the accident? "No.")

JUDGE: Raymond J. McKoski (Lake Co. -- Waukegan)

PLTF ATTY: David S. Weinstein of Weinstein & Douglas ASKED: \$955,000

DEFT ATTYS: Michael E. Kujawa and Matthew H. Weller of Judge, James & Kujawa (Park Ridge)
(INDIANA INSURANCE) OFFER: \$15,000

PLTF MEDL: Lee Tisa, D.P.M. (Podiatrist)

FACTS: Dec. 24, 1995, at approximately 4 p.m., pltf F-39 went to Leno's Sandwich Restaurant in Waukegan to visit an old friend, Scott Dolan. Dolan is the son of the owners, William and Virginia Dolan. According to defense counsel, Scott Dolan was a resident of a "drug rehab facility" from Oct. to Dec. of 1995 but was home on a temporary pass and went to the restaurant to say hello to former co-workers. After pltf had been at the restaurant for about 10-20 minutes, Dolan asked to speak with her outside because he felt she was clearly intoxicated. Pltf claimed that as they exited the restaurant she fell after being bumped by a bag of garbage Dolan was carrying. She suffered a bimalleolar fracture of her left ankle requiring internal reduction (\$45,000 medl. bills). Pltf alleged that Scott Dolan was acting as the agent and/or employee of the restaurant and that Dolan's act of bumping her was the sole proximate cause of the injury. Defense denied that Dolan was the agent or employee of the corporation at the time of the incident or that Dolan ever bumped the pltf, and contended that pltf's intoxication was the sole proximate cause of her injury. This is a retrial of a case that was originally tried in December 2000 that also ended in a verdict for the defense (reported at JVR's 00 D/6).