DEFENSE VERDICT -- NOT GUILTY -- FALL IN LA SALLE STREET STATION TUNNEL

TRIAL ATTORNEYS: ***MICHAEL E. KUJAWA & THOMAS N. OSRAN***
JUDGE, JAMES & KUJAWA, LLC

CLIENT: ***NORTHEAST ILLINOIS REGIONAL COMMUTER RAILROAD CORP., D/B/A METRA***
MICHAEL NOLAND & SUE-ANN ROSEN

(VV 31/6) PREMISES LIAB.--FALL IN LASALLE STREET TRAIN STATION TUNNEL (8)
Diane Albertson v Northeast Illinois Regional Commuter Railroad Corp., d/b/a Metra 03L-6374 (formerly 98L-14784) Tried Feb. 9-19, 2004

VERDICT: Not Guilty (Special Interrogatories: Was condition reasonably safe? "Yes." Did deft have actual or constructive notice? "No.")
JUDGE: Ralph Reyna (Law Division)
PLTF ATTYS: James P. Tutaj of Hilfman, Martin DEMAND: $300,000 ASKED: $815,286
DEFT ATTYS: Michael E. Kujawa and Thomas N. Osran of Judge, James & Kujawa (Park Ridge) (SELF-INSURED) OFFER: $150,000
PLTF MEDL: Dr. Steven Wardell (Orthopedist)
PLTF EXPERT: Dr. Robert Stanis (Mechanical Engineer)
DEFT EXPERT: Jay Carow (Architect)

FACTS: Jan. 27, 1998, pltf F-42 legal secretary was on her way to work at 9:00 a.m. when she tripped and fell on raised steel cover over an expansion joint at the entrance to the east tunnel exit of Metra's LaSalle Street Station downtown. She sustained a minimally displaced avulsion fracture of the greater tuberosity in her left shoulder, torn rotator cuff with open repair surgery, and avascular necrosis of the left humeral head due to the trauma ($27,795 medl., $7,490 LT 11 weeks). Pltf contended that exposure to rain, snow and salt caused the anchoring system to fail which allowed the expansion joint cover to become raised from the surrounding walkway surface, thereby creating a tripping hazard. Defense argued that the steel plate could not raise up from surrounding surface, there was no evidence plate was raised on date of occurrence, Metra had no notice of any alleged unreasonably dangerous condition in a sufficient amount of time to repair it, and approximately 30,000 passengers a day safely walked across the exit expansion joints. To establish notice, pltf relied on a 1996 Metra memo that stated expansion joints could "raise up" and cause a "tripping hazard," but Metra testimony indicated the memo related to a different location at the station. Pltf's counsel notes that Metra replaced the entire expansion joint cover system three days after the occurrence, but Court excluded this evidence as a post-remedial measure and not evidence of notice. Case had been previously dismissed on summary judgment based on Section 2-201 (discretionary immunity) of the Tort Immunity Act, and reversed on appeal.