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**Nature of Action:** Falling headboard

**Injuries:** Cervical fusion following neck injury in premises liability case

**County:** Milwaukee County

**Case name:** Stan Turek v. Four Points by Sheraton, et al.

**Judge:** Patricia McMahon

**Verdict or settlement:** Settlement

**Original demand:** Over \$1 million

**Original offer:** Denial of liability

**Amount:** \$750,000

**Plaintiff's attorney:** Jay Urban, Urban & Taylor s.c., Milwaukee

**Defendant's attorney:** Donald Lieb, Otjen Van Ert Lieb & Weir, for defendant hotel, Milwaukee; Joseph Wirth, Piper & Schmidt, for interior designer, Milwaukee; Josh Johanningmeier, LaFollette Godfrey & Kahn, Madison, for installer

**Plaintiff's expert:** Eugene Holland, Chicago, Illinois, and Bill Cetera, Milwaukee (plaintiff's liability); Frederic Gutman, M.D., Hosang Homayoon, M.D. both of Long Island, New York (plaintiff's treating physicians); and William Ewens, Milwaukee (plaintiff's vocational rehabilitation)

**Noteworthy issues:** Liability dispute on lack of negligence; cause of injury question; value of pain and suffering and loss of earning capacity

**Plaintiff counsel's summary of the facts:** Stan Turek was sleeping in a hotel bed when a headboard crashed down from the wall. The accident happened at the Four Points by Sheraton near the Milwaukee airport where he was a guest for a business training seminar. He was a sales executive with Honeywell security systems at the time. Injury to the plaintiff occurred during the early morning hours of Dec. 5, 2001. Stan is about 6'4" tall, and his legs and/or head extend beyond even a King size bed. Early that morning, Stan awoke from a deep sleep due to a loud noise and the headboard of the bed detaching from the wall and crashing down upon him, causing him to quickly exit out of the bed.

As a result of the headboard falling down, Turek jolted out of bed and sustained immediate injury to his neck. It was a probable “startle reaction” from the headboard failing that was as significant as any strike from the object in producing an injury here. This room was modeled, including the headboard, on other headboards elsewhere in the hotel as it was designed by a major hotel interior designer who ordered this headboard design. It was done as part of a hotel-wide remodel in 1999.

Interestingly, the headboard that became dislodged from the wall was not attached to the bed frame itself, nor was it installed with fixation to the wall studs.

We know from a scene inspection shortly after this incident that the headboard in Stan Turek’s room was attached to the wall with a “cleating” system, sometimes referred to as a “male” cleat on the headboard, and a “female” cleat on the wall. These cleats are at 45 degrees, made of particle board, and screwed to their respective objects.

The Four Points personnel investigated. The maintenance manager is no longer with the hotel, and has not been found. In his stead, his assistant and the general manager of engineering were both deposed. They corroborated the slicing of the cleat and the detachment as Mr. Turek reported, and also substantiated the report of the incident in the early morning to front desk personnel after it happened. The inspection of the Turek room revealed that this headboard had become detached from the wall, and these employees actually had to reattach the headboard using a more secure “toggle” bolt mechanism.

Defendants contended that this cleating system was industry practice.

Plaintiffs retained two liability experts in this matter. First, Eugene Holland is a construction manager of great experience from the Chicago area. His opinion was that this was an unsafe design and install based upon a lack of safety integrity in the remodel to make the headboard and attach it to the wall. It was only a question of “when” it would come down, not “if” it would. Second, Bill Cetera is the head of all maintenance for Milwaukee Public Schools. His opinions were about the lack of integrity of the cleat. He was on the scene just months after this incident, and witnessed the poor choice of screw and a cleat that had split. He discussed numerous better designs for this headboard and attachment. These experts essentially say what is common sense, much lower than the standard in a safe place case: If you are a hotelier and plan to put something of 40 some pound on the wall next to guest’s heads then you better attach it so it does not come down. There is no guest serving reason that the headboard is attached to the wall; that design only serves the hotel for ease in cleaning when the bed is pulled away from the wall, and ease in a remodeling project.

Stan’s medical history was an issue. He did have some lower back discomfort, but nothing of any note or treatment in the neck area. This made him actually use pain medication regularly before the incident. Dr. Gutman performed two separate cervical fusions in 3 years, and believes that Stan is significantly disabled as a direct result of the

injuries sustained in this incident. In addition to the surgery, Stan underwent extensive rehabilitation by way of physiatry treatment and evaluation.

Plaintffs expert professionals opined that Stan's impairment, even after both surgeries, is substantial, and limiting in an employment capacity as to the losses of work life, and estimated that Stan's losses are permanent.

Mediation with Gerald Schmidt was successful in producing a compromised settlement.