

# Nelson & Dahle, P.C.

Wentz v. BPO Elks Lodge #394 (verdict)

DISTRICT COURT

VERDICT: Defense, poker chair collapse, shoulder.

A Billings jury found 12-0 that BPO Elks Lodge was not negligent in connection with injuries sustained by Elizabeth Wentz when her chair collapsed at a poker tournament 4/4/09.

Wentz attended the tournament at Montana Chad's in Billings. When she sat at the table to play, her chair collapsed and she fell and injured her left shoulder. Tournament promoter Jay Taylor had rented 30 stackable metal chairs from Elks for \$2 each. Wentz contended that Elks negligently failed to inspect its chairs and failed to rent a structurally sound chair to Taylor. She contended that renting a 22-year-old chair that had been culled from its own inventory and was so worn out that it would not rent it to its own customers was negligence. John Jurist inspected the chair for Wentz and concluded that it was poorly designed and in bad shape.

Elks contended that it had no prior problem with its chair inventory, and that the failure could not have been determined by the untrained eye. Taylor had cleaned the chairs prior to the tournament and replaced some cushion screws. He originally testified that the chairs were in good shape, but stated at trial that they were in bad shape. Elks also suggested that the chair that collapsed was not from its rental inventory because each chair was marked with an X on the bottom, but those previously sold at garage sales had not been marked with an X. The collapsed chair did not show an X.

Wentz, 60, suffered a torn biceps and underwent a tenotomy in 2/10. Medical specials were \$19,000. She sought \$15,000 past pain & suffering and \$70,000 future pain & suffering.

Plaintiff's experts: John Jurist, Billings (biomechanics/biophysics, deposited); orthopedic surgeon Matthew Kopplin, Billings (deposed).

Defendant's experts: none.

Demand, \$80,000; offer, \$5,000 from Elks, \$5,000 from Taylor. Jury request, \$104,000; jury suggestion, \$25,000 if Elks liable.

Jury deliberated 30-40 minutes 2nd day; Judge Todd.

Wentz v. BPO Elks Lodge #394, Yellowstone DV-10-1381, 2/2/12.

Dane Schofield (Peterson & Schofield), Billings, for Wentz; Randall Nelson (Nelson & Dahle), Billings, for Elks (Gallagher Bassett Services, TPA for Elks (self-insured)).

