

# Daily Journal

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## Panel upholds \$100M award against resort over failure to aid woman with brain aneurysm

**Wisdom Howell**

*Daily Journal Staff Writer*

An appellate panel on Tuesday unanimously affirmed a \$100 million award to a plaintiff who sued Diamond Resorts Management Inc. for failing to render medical aid when she suffered a ruptured brain aneurysm while staying at a resort.

“This decision culminates a nine-year battle for justice and accountability following the devastating injuries she suffered due to the defendants’ negligence,” the plaintiffs’ attorney, Arash Homampour of The Homampour Law Firm, wrote in an email.

He thanked his co-counsel – Matthew B. F. Biren and John A. Roberts of Biren Law Group, and Jeffrey I. Ehrlich of The Ehrlich Law Firm.

According to the opinion written by Justice Eileen C. Moore of the 4th District Court of Appeal, Michael O’Malley called one of Diamond Resorts’ properties in

Capistrano Beach in March 2014, asking for a welfare check on his wife, Priscilla, who had recently checked in. He was told no one was in the room but discovered her on the floor when he drove to the hotel to check on her. Patricia O’Malley is no longer able to make new memories, suffering from

The O’Malleys had prevailed in a jury trial in Orange County in March 2022. They were awarded the total of estimated future medical expenses, past and future economic loss and past and future loss of consortium. The defendant appealed, arguing that the plaintiffs failed to introduce competent evi-

Edward Faenza of Yoka & Smith, LLP – did not respond to requests for comment Tuesday.

In the opinion, Moore addressed the defendants’ “negligent undertaking theory” that argued O’Malley undertook the responsibility for his wife’s injury.

“We find Michael did not undertake to render services to Priscilla simply by calling the hotel,” Moore wrote. “More importantly, we find it is not reasonably probable that had the jury been instructed on comparative negligence, the jurors would have then found Michael partially at fault for his wife’s brain injuries.”

Justices Joanne Motoike and Thomas A. Delaney, concurred.

“The affirmation is a testament not only to the indefatigable spirit of Mr. and Mrs. O’Malley but also to the legal process that, while often arduous, is instrumental in achieving just outcomes,” Homampour said Tuesday.

**‘The affirmation is a testament not only to the indefatigable spirit of Mr. and Mrs. O’Malley but also to the legal process.’**

— *Arash Homampour*  
*The Homampour Law Firm*

anterograde amnesia, as a result of the aneurysm. *O’Malley et al v. Diamond Resorts Management Inc.*, G061459 (4th App. Dist. filed June 8, 2022).

dence of causation at trial.

Attorneys for the resort – Emily V. Cuatto of Horvitz & Levy LLP, Mallory Elizabeth Lorber of Taylor Anderson LLP, and Christopher

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