

# Graham Cos. Loses Appeal in Negligence Suit Over Bathtub Fall

The owner-developer appealed a jury verdict in favor of a tenant who fell in one of its apartment buildings in Miami Lakes, the town built by the pioneering Graham family.

By [Lidia Dinkova](#) April 17, 2020 at 04:19 PM



St. Tropez Apartments at 16185 NW 64th Ave. Photo: Google

Real estate developer Graham Cos. lost its appeal in a negligence lawsuit filed by an apartment tenant who slipped in the bathtub and suffered a deep cut that needed 30 stitches to close.

Graham, a historic name in South Florida real estate starting with a family diary and progressing to develop the master-planned town of Miami Lakes,

appealed a \$1516,347 final judgment in favor of the injured resident, Jason Amado.

Graham's appeal focused whether the trial court erred in denying its motion for a directed verdict or new trial.

"We answer both in the negative," Judge Eric Hendon wrote in the opinion Wednesday. Judges Vance Salter and Fleur Lobree concurred.

Graham's attorneys — Chartwell Law partners Mitchell Lundeen and Marcus Mahfood and associate Anaeli Petisco-Rojas — didn't respond to a request for comment by deadline.

Graham president and CEO Stuart Wyllie also had no comment.

Amado was represented on appeal by Philip D. Parrish in South Miami.

Robert Parks of The Law Offices of Robert L. Parks in Miami and Jorge Fors of FORS | Attorneys at Law in Coral Gables filed Amado's Miami-Dade Circuit Court complaint. Fors and Gabriel Garay, also of The Law Offices of Robert L. Parks, tried the case.

Garay said the next step will be to seek attorney fees and costs for Amado.

"This is a great result, and we are very happy for Mr. Amado. The district court's opinion is another victory in what has been a long journey for him," Garay said. "Hopefully, this case will be finalized without much further costly litigation."

Amado's complaint said he slipped in the shower in 2013 at Graham's St. Tropez Apartments because the water wasn't draining properly and accumulated in the bathtub. The appellate court said he slipped as he reached for a towel, first hitting his back on a porcelain soap dish and then cutting himself on the jagged broken dish.

Amado was hospitalized and needed subsequent therapy.

The 147-unit, garden-style St. Tropez at 16185 NW 64th Ave. is a Graham-owned and developed property.

Amado, who sued in 2014, in [an amended complaint listed negligence and negligent repair counts.](#)

In 2018, the jury [returned a \\$179,689 verdict in favor of Amado](#) based on Graham negligence. [Judge Rodney Smith six days later issued an amended final judgment for \\$156,347 for Amado.](#)

Lundeed, Graham's attorney, [in a post-trial motion](#) argued the verdict was reached against the manifest weight of the evidence and sought a directed verdict.

Amado's team noted Graham sent a maintenance staffer after Jason and Vanessa Amado initially complained about the shower. Lundeed largely focused on an admission by that Amados that they had no drainage problems after Graham's maintenance.

"The fact that in light of plaintiff's testimony and plaintiff's expert's testimony, the jury found plaintiff was not comparatively negligent is against the manifest weight of the evidence," he wrote.

Smith denied Lundeed's motion. The appellate panel agreed, finding no abuse of discretion.

"In Amado's case, the facts indicate that the tub became slippery because the soapy water backed up from the clogged drain," the opinion said.