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# Woman wins \$360,000 in drink lawsuit

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She said she was given cleaning solution at O'Charley's restaurant

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By Dan Galindo

JOURNAL REPORTER

Published: April 12, 2008

A Forsyth Superior Court jury awarded \$360,000 this week to a woman who was served cleaning solution instead of water at the O'Charley's restaurant on Hanes Mall Boulevard.

The jury awarded \$10,000 to compensate Katherine Everhart of Lexington for her medical bills and pain from the incident. On Monday, the jurors awarded \$350,000 in punitive damages.

Everhart, her husband and two children were at O'Charley's on Sept. 9, 2006, when a waiter, Dathan Jones, refilled her water glass with the commercial cleaning solution.

Another employee had put a pitcher of the solution in the wrong place -- by the soda fountain and near water pitchers.

O'Charley's has a separate area for cleaning materials, and the solution should not have been in a water pitcher, according to the lawsuit.

After drinking the cleaning solution, Everhart went to the restroom and vomited. She later had an endoscopy to make sure that there were no lasting health problems.

Allen Smith, an attorney for O'Charley's, said he was preparing motions that ask for a judge to set aside the ruling for the punitive damages, and if that effort is unsuccessful, O'Charley's would ask for a new trial.

Smith declined to comment on the jury verdict.

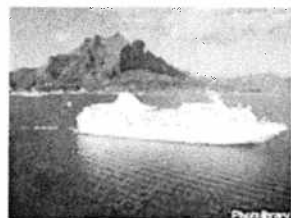
Everhart's attorneys, John Vermitsky and Ben Porter, argued that the restaurant was negligent and put the Everharts on the witness stand to testify that even when



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restaurant employees realized their mistake, they would not admit to what they had done.

The Everharts said that the waiter snatched the glass off the table without saying anything.

An assistant manager, Byron Witherspoon, would not tell Katherine Everhart what she had been served, Everhart said.

Witherspoon denied that allegation.

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