

*Nathaniel Sutera v. Deborah Natiello Et Al. (AC 40749)*

The plaintiff brought this case forward seeking damages from the defendants for personal injuries sustained as a result of the defendants' alleged negligence. The plaintiff was injured while conducting repairs on a building owned by the defendants. In order to conduct the necessary repairs, the plaintiff had to use scaffolding erected on the side of the building. The scaffolding gave way while the plaintiff was on it, causing him to fall to the ground. As a result of the accident, the plaintiff sustained severe and permanent injuries which rendered him a paraplegic. At the time the accident occurred, the plaintiff's blood alcohol content was between 0.07 and 0.10 percent.

The plaintiff's complaint contained four counts. Two of the counts were based on theories of common-law negligence and the other two were based on the theory of *res ipsa loquitur*. The defendants denied the allegations of negligence and submitted a special defense claiming that the plaintiff's own contributory negligence in attempting to conduct the repairs while drunk, was the proximate cause of his injuries. The trial court instructed the jury on the theory of *res ipsa loquitur* and submitted a single verdict form to the jury. The jury returned a general verdict for the plaintiff and additionally found the plaintiff to be 50 percent contributorily negligent. The defendants filed a motion to set aside the judgement contending that the court improperly instructed the jury on the plaintiff's claims under the doctrine of *res ipsa loquitur*. The trial court denied the defendants' motion. The defendants appealed.

The issue presented to the Appellate Court in this appeal is whether the court properly instructed the jury on the doctrine of *res ipsa loquitur*. The Court determined that the general verdict rule precluded the defendant from bringing this appeal. The Court was unpersuaded by the defendants' claim that the general verdict rule should not apply in the present case because

interrogatories were submitted to the jury. The Court reasoned that the mere fact that interrogatories were submitted to the jury, in and of itself, did not constitute sufficient reason to preclude application of the general verdict rule. The Court further noted that because the jury returned a general verdict for the plaintiff and the defendants implicated only one possibly erroneous route which the jury could have taken in reaching a verdict but left open the possibility that they took an appropriate alternative route in reaching their verdict, the defendant failed to establish that the general verdict rule should not apply. The Court found that because the general verdict rule applies, the defendants' claim of instructional error was unpreserved and therefore not reviewable. The Court therefore determined that the trial court acted properly in their instruction to the jury.

The Court next considered the defendants argument that the trial court abused its discretion in denying the defendants' motion to set aside the verdict or for remittitur. The Court again was unpersuaded by the defendants' argument. The defendant contends that the jury was influenced by sympathy for the plaintiff, who is now a paraplegic, rather than legal principles. However, the defendant failed to identify anything in the record which would indicate that the members of the jury were persuaded by sympathy. To the contrary, the Court found that the record suggest that the jury was not influenced by sympathy as they found the plaintiff to be contributorily negligent and 50 percent responsible for the injuries he sustained. In the absence of any evidence in the record to support their claim, the defendants cannot prevail on this appeal. The Court therefore found that the trial court did not abuse their discretion in denying the defendants' motion to set aside the verdict.

The Appellate Court upheld the decisions of the trial court and affirmed their ruling.