

SUPREME COURT OF RHODE ISLAND

Patricia Sullo v. David Greenberg

68 A.3d 404 (R.I. 2013) · No. 2012-69-Appeal · Decided June 18, 2013

SUMMARY

The Rhode Island Supreme Court vacated summary judgment for a podiatrist in a premises-liability action arising from the plaintiff’s fall on a wet entrance ramp during a winter precipitation event. The court held that a genuine issue of material fact existed regarding the extent and nature of any snow or ice accumulation, which affected application of the Connecticut Rule. The court rejected the plaintiff’s alternative argument that the defendant’s status as her physician imposed a heightened duty of care concerning the entranceway and remanded the case.

CASE DETAILS

COURT	Supreme Court of Rhode Island
WRITING FOR THE COURT	Maureen McKenna Goldberg; Frank Williams Suttell, C.J.; Paul A. Flaherty; William P. Robinson III; Gilbert V. Indeglia
JURISDICTION	Rhode Island
DECIDED	June 18, 2013
DOCKET	2012-69-Appeal
DISPOSITION	vacated
PROCEDURAL POSTURE	Plaintiff appealed from the Superior Court's grant of summary judgment for defendant in a premises-negligence action.
STANDARD OF REVIEW	Summary judgment is reviewed de novo. The evidence is viewed in the light most favorable to the nonmoving party, and summary judgment is proper only when no genuine issue of material fact exists and the moving party is entitled to judgment as a matter of law.
PRECEDENTIAL VALUE	Published Rhode Island Supreme Court opinion; precedential.
PARTIES	Patricia Sullo v. David Greenberg, M.D.

TOPICS

- premises liability
- negligence
- summary judgment
- standard of review
- appellate procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether a genuine issue of material fact existed concerning the extent and character of the snow or ice at the location where Sullo fell, such that application of the Connecticut Rule could not be resolved on summary judgment.
2. Whether Greenberg owed Sullo a heightened duty of care because he was her physician.

HOLDINGS

1. Summary judgment was improper because genuine issues of material fact existed concerning whether snow or ice had accumulated at the location of Sullo's fall and whether the storm was ongoing or had ended. Those factual questions were material to determining whether the Connecticut Rule relieved Greenberg of a duty to treat the entranceway.
2. Greenberg did not owe Sullo a heightened duty of care with respect to the office entrance merely because he was her physician. He owed her the ordinary duty of a business invitor concerning the entranceway and the physician's duty of care concerning her medical treatment.

KEY QUOTATIONS

"The only undisputed facts relevant to this case seem to be that plaintiff fell on a wet surface in mid-November during a precipitation event." (-5-)

"Greenberg owed the plaintiff the duty of care of a physician in regard to his medical treatment of her leg and foot, and he owed her the standard duty of care of a business invitor in regard to his entranceway." (-8-)

FACTUAL BACKGROUND

Sullo, who was using crutches and had her left foot in a soft cast after surgery performed by Greenberg, went to Greenberg's podiatric office for a postoperative appointment during a mix of rain and snow. She used the office ramps and alleged that her crutch slipped on a wet wooden walkway, causing her to fall and injure her left leg and foot. The parties disputed whether snow or ice had accumulated at the location of the fall and whether the precipitation was ongoing, had ceased, or had changed from snow to rain.

PROCEDURAL HISTORY

Sullo sued Greenberg after falling on the entrance ramp to his podiatric office during a winter precipitation event. The Providence County Superior Court granted Greenberg summary judgment on November 15, 2011, and final judgment entered on December 16, 2011. The Rhode Island Supreme Court accepted the appeal for summary disposition, vacated the judgment, and remanded.

DISPOSITION

vacated

REMAND INSTRUCTIONS

Remanded to the Superior Court for further factual findings and proceedings concerning whether the storm had produced an accumulation of snow or ice and whether the Connecticut Rule governed Greenberg's duty to treat the entranceway.

CASES CITED

- Fuller v. Housing Authority of Providence, 108 R.I. 770, 279 A.2d 438 (1971)
- Reardon v. Shimelman, 128 A. 705 (Conn. 1925)
- Sacco v. Cranston School Department, 53 A.3d 147 (R.I. 2012)
- Moore v. Rhode Island Board of Governors for Higher Education, 18 A.3d 541 (R.I. 2011)
- Mutual Development Corp. v. Ward Fisher & Co., 47 A.3d 319 (R.I. 2012)
- Young v. Warwick Rollermagic Skating Center, Inc., 973 A.2d 553 (R.I. 2009)
- Hill v. National Grid, 11 A.3d 110 (R.I. 2011)
- Willis v. Omar, 954 A.2d 126 (R.I. 2008)
- Benaski v. Weinberg, 899 A.2d 499 (R.I. 2006)
- Barenbaum v. Richardson, 114 R.I. 87, 328 A.2d 731 (1974)
- Berardis v. Louangxay, 969 A.2d 1288 (R.I. 2009)
- Ouch v Khea, 963 A.2d 630 (R.I. 2009)
- Martin v. Marciano, 871 A.2d 911 (R.I. 2005)
- Terry v. Central Auto Radiators, Inc., 732 A.2d 713 (R.I. 1999)
- Cooks v. O'Brien Properties, Inc., 710 A.2d 788 (Conn. App. Ct. 1998)