

## SUPREME COURT OF RHODE ISLAND

### James W. Brown et al. v. Elmer Stanley et al.

84 A.3d 1157 (R.I. 2014) · No. 2012-169-Appeal; PC 07-4018 · Decided February 18, 2014

#### SUMMARY

The Rhode Island Supreme Court affirmed judgment as a matter of law for Project Hope and the Diocesan Bureau in an action seeking contribution among alleged joint tortfeasors. The court held that the defendants owed no legally cognizable duty to an injured participant who was struck by a truck while crossing an adjacent public roadway, and that any purported assumption of a traffic-control duty did not establish liability. The court therefore did not reach the conditional grant of a new trial.

#### CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                            |
|-----------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of Rhode Island                                                                                                                                                                                                                                                                                              |
| WRITING FOR THE COURT | Maureen McKenna Goldberg, Associate Justice; Frank Williams Suttell, Chief Justice; Francis X. Flaherty, Associate Justice; Gilbert V. Indeglia, Associate Justice; William P. Robinson III, Associate Justice                                                                                                             |
| JURISDICTION          | Rhode Island                                                                                                                                                                                                                                                                                                               |
| DECIDED               | February 18, 2014                                                                                                                                                                                                                                                                                                          |
| DOCKET                | 2012-169-Appeal; PC 07-4018                                                                                                                                                                                                                                                                                                |
| DISPOSITION           | affirmed                                                                                                                                                                                                                                                                                                                   |
| PROCEDURAL POSTURE    | Bluelinx appealed from the Superior Court's grant of the defendants' renewed motion for judgment as a matter of law after a jury found the defendants negligent and apportioned them twenty percent of the fault for the settlement of Mary Cummings's injury claims.                                                      |
| STANDARD OF REVIEW    | The Supreme Court reviewed the grant of judgment as a matter of law de novo, viewing the evidence in the light most favorable to the nonmoving party, without weighing evidence or assessing witness credibility, and affirming if the nonmoving party had not presented legally sufficient evidence to support a verdict. |
| PRECEDENTIAL VALUE    | Published precedential opinion                                                                                                                                                                                                                                                                                             |
| PARTIES               | Bluelinx Corporation, James W. Brown v. Project Hope/Projecto Esperanza, Inc., Diocesan Bureau of Social Services, Elmer Stanley                                                                                                                                                                                           |

#### TOPICS

duty of care

negligence

motion for directed verdict

standard of review

appellate procedure

## PRACTICE AREAS

Torts

Negligence

Appellate Procedure

Civil Procedure

## QUESTIONS PRESENTED

1. Whether Project Hope and the Diocesan Bureau owed Cummings a legal duty to protect her from being struck by traffic on an abutting public street.
2. Whether the defendants voluntarily assumed a duty to protect Cummings by stopping and controlling traffic during the charitable walk.
3. Whether the evidence provided a legally sufficient basis for the jury's negligence verdict and apportionment of fault.

## HOLDINGS

1. The defendants owed Cummings no cognizable duty of care to protect her from traffic on the public highway adjoining the church.
2. The defendants did not assume a legally enforceable duty to protect Cummings merely because an employee temporarily stopped traffic for the walkers.
3. Judgment as a matter of law was proper because, absent a legal duty, the plaintiff could not establish negligence as a matter of law.

## KEY QUOTATIONS

*"We deem our holding in Ferreira controlling in this case."* (-9-)

*"The papers in this case may be returned to the Superior Court, with directions to enter judgment on behalf of the defendants."* (-12-)

## FACTUAL BACKGROUND

Mary Cummings attended the annual Good Friday Walk sponsored on behalf of Project Hope and the Diocesan Bureau. As participants crossed Broad Street, a Project Hope employee stopped traffic and then waved traffic forward after the group had crossed. Cummings, an elderly woman using a cane, declined repeated offers from Project Hope executive director Elmer Stanley to assist her across the street and was struck and grievously injured by a tractor-trailer operated by James W. Brown. Bluelix and Brown later settled Cummings's claims for \$1,450,000 and sought contribution from the alleged joint tortfeasors.

## PROCEDURAL HISTORY

Bluelix and Brown sued Project Hope, the Diocesan Bureau, and Stanley for contribution toward a \$1,450,000 settlement paid to Mary Cummings after she was struck by Brown's truck during a charitable walk. The Superior Court granted summary judgment to Stanley individually, and the case proceeded to trial against the remaining defendants. After the jury found negligence and apportioned twenty percent fault to the defendants, the trial

justice granted the defendants' renewed Rule 50 motion for judgment as a matter of law and conditionally granted a new trial. The Rhode Island Supreme Court affirmed and directed entry of judgment for the defendants.

## DISPOSITION

affirmed

## REMAND INSTRUCTIONS

The papers were to be returned to the Superior Court with directions to enter judgment on behalf of the defendants.

## CASES CITED

- Ferreira v. Strack, 636 A.2d 682 (R.I. 1994)
- McGarry v. Pielech, 47 A.3d 271 (R.I. 2012)
- Medeiros v. Sitrin, 984 A.2d 620 (R.I. 2009)
- Oliveira v. Jacobson, 846 A.2d 822 (R.I. 2004)
- Gianquitti v. Atwood Medical Associates, Ltd., 973 A.2d 580 (R.I. 2009)
- Willis v. Omar, 954 A.2d 126 (R.I. 2008)
- Mills v. State Sales, Inc., 824 A.2d 461 (R.I. 2003)
- Rodrigues v. Miriam Hospital, 623 A.2d 456 (R.I. 1993)
- Martin v. Marciano, 871 A.2d 911 (R.I. 2005)
- Gushlaw v. Milner, 42 A.3d 1245 (R.I. 2012)
- Volpe v. Gallagher, 821 A.2d 699 (R.I. 2003)
- Izen v. Winoker, 589 A.2d 824 (R.I. 1991)
- Therrien v. First National Stores, Inc., 63 R.I. 44, 6 A.2d 731 (1939)
- Ouch v. Khea, 963 A.2d 630 (R.I. 2009)
- Selwyn v. Ward, 879 A.2d 882 (R.I. 2005)
- Economou v. Valley Gas Co., 112 R.I. 514, 312 A.2d 581 (1973)