

SUPREME COURT OF NEVADA

Vega v. Eastern Courtyard Associates, 117 Nev. 436

24 P.3d 219 (2001) · No. Nos. 33932, 34059 · Decided June 13, 2001

SUMMARY

The Nevada Supreme Court held that violation of a building-code provision adopted by county ordinance may constitute negligence per se when the plaintiff belongs to the protected class and the injury is of the type the provision was intended to prevent. The court reversed a defense judgment and an attorney-fee award because the district court improperly refused to instruct the jury on negligence per se. The case was remanded for further proceedings, including determinations concerning the ramp provision’s applicability and causation.

CASE DETAILS

COURT	Supreme Court of Nevada
WRITING FOR THE COURT	Rose, J.; Shearing, J.; Leavitt, J.; Becker, J.; Maupin, C.J.; Young, J.; Agosti, J.
JURISDICTION	Nevada
DECIDED	June 13, 2001
DOCKET	Nos. 33932, 34059
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Consolidated appeals from a district court judgment for the defendant following a jury verdict and from an order awarding the defendant attorney fees. The plaintiff challenged the district court's refusal to submit her negligence per se theory to the jury.
STANDARD OF REVIEW	De novo review applies to whether a statute, administrative regulation, or local ordinance defines the standard of care in a negligence action because that issue is a question of law.
PRECEDENTIAL VALUE	Published Nevada Supreme Court opinion; binding Nevada precedent.
PARTIES	Wendy Vega v. Eastern Courtyard Associates, A Limited Partnership

TOPICS

- negligence
- premises liability
- construction law
- municipal law
- appellate procedure

PRACTICE AREAS

negligence

premises liability

construction law

municipal law

appellate procedure

QUESTIONS PRESENTED

1. Whether violation of a Uniform Building Code provision adopted by a county ordinance can constitute negligence per se.
2. Whether the district court erred by refusing to instruct the jury on negligence per se and limiting the building-code violation to evidence of negligence.
3. Whether the district court's attorney-fee award under NRCP 68 should stand after reversal of the judgment.
4. Whether the district court's decision to bifurcate the trial should be reviewed.

HOLDINGS

1. A violation of a building code provision adopted by local ordinance constitutes negligence per se if the violation is established, the injured person belongs to the class of persons the provision was intended to protect, and the injury is of the type the provision was intended to prevent.
2. Whether an injured person belongs to the class protected by the building-code provision and whether the injury is of the type the provision was intended to prevent are questions of law for the court.
3. The district court committed reversible error by refusing to instruct the jury on negligence per se because Vega presented sufficient evidence supporting that theory.

KEY QUOTATIONS

"We conclude that the violation of a building code provision adopted by a county ordinance is negligence per se if the plaintiff belongs to the class of persons the building code provision is intended to protect, and the injury the plaintiff suffered is of the type the provision was intended to prevent." (24 P.3d 219; 117 Nev. 437)

"Accordingly, we hold that if (1) a violation of a building code provision adopted by local ordinance is established, (2) an injured party fits within the class of persons that a particular provision of a building code was intended to protect, and (3) the injury suffered is of the type the provision was intended to prevent, the alleged violation constitutes negligence per se." (24 P.3d 221; 117 Nev. 441)

FACTUAL BACKGROUND

On September 10, 1993, Wendy Vega went to Eastern Courtyard's medical facility in Las Vegas for a scheduled appointment. While negotiating a sloped area leading to the facility's main entrance, Vega slipped, fell, and was injured. Vega presented expert testimony that the slope exceeded the maximum slope allowed by the Uniform Building Code, which Clark County had adopted by ordinance; Eastern Courtyard disputed proximate cause but did not present contrary slope evidence.

PROCEDURAL HISTORY

Vega sued Eastern Courtyard after slipping and falling on a ramp at Eastern Courtyard's medical facility. The district court denied Vega's motion for partial summary judgment on duty and breach, refused her proposed negligence per se instruction, and instructed the jury that a building-code violation could be considered only as evidence of negligence. The jury returned a verdict for Eastern Courtyard, and the district court awarded Eastern Courtyard \$31,596.25 in attorney fees under NRCP 68. The Nevada Supreme Court reversed both orders and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The district court must determine whether Vega belongs to the class of persons the relevant building-code provision was intended to protect and whether her injury is of the type the provision was intended to prevent. If both conditions are satisfied, the district court must instruct the jury on negligence per se. The district court's judgment and attorney-fee order are both reversed.

CASES CITED

- Barnes v. Delta Lines, Inc., 99 Nev. 688, 669 P.2d 709 (1983)
- Del Piero v. Phillips, 105 Nev. 48, 769 P.2d 53 (1989)
- Ashwood v. Clark County, 113 Nev. 80, 930 P.2d 740 (1997)
- Anderson v. Baltrusaitis, 113 Nev. 963, 944 P.2d 797 (1997)
- Brannan v. Nevada Rock & Sand, 108 Nev. 23, 823 P.2d 291 (1992)
- Sagebrush Ltd. v. Carson City, 99 Nev. 204, 660 P.2d 1013 (1983)
- County of Clark v. Upchurch, 114 Nev. 749, 961 P.2d 754 (1998)
- Beattie v. Thomas, 99 Nev. 579, 668 P.2d 268 (1983)
- C.S.A.A. v. District Court, 106 Nev. 197, 788 P.2d 1367 (1990)
- Price v. Sinnott, 85 Nev. 600, 460 P.2d 837 (1969)
- Cable v. Shefchik, 985 P.2d 474 (Alaska 1999)
- Huang v. Garner, 157 Cal. App. 3d 404, 203 Cal. Rptr. 800 (Ct. App. 1984)
- Aas v. Superior Court, 24 Cal. 4th 627, 101 Cal. Rptr. 2d 718, 12 P.3d 1125 (2000)
- Nettleton v. Thompson, 117 Idaho 308, 787 P.2d 294 (1990)
- Bills v. Willow Run 1 Apartments, 547 N.W.2d 693 (Minn. 1996)
- Herbst v. Miller, 252 Mont. 503, 830 P.2d 1268 (1992)
- Eduardo v. Clatsop Community Resource Dev. Corp., 168 Or. App. 383, 4 P.3d 83 (2000)
- Knutson v. Barbour, 266 Mont. 170, 879 P.2d 696 (1994)
- Pullman v. Outzen, 924 P.2d 416 (Wyo. 1996)
- Nunneley v. Edgar Hotel, 36 Cal. 2d 493, 225 P.2d 497 (1950)

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