

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

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HUGH CURRIE, :
 :
 Plaintiff, :
 :
 v. : Civil No. 3:06cv01575 (AWT)
 :
 METRO-NORTH RAILROAD COMPANY :
 and NATIONAL RAILROAD :
 PASSENGER CORPORATION, :
 :
 Defendants. :
-----X

**RULING ON NATIONAL RAILROAD PASSENGER CORPORATION'S
MOTION FOR SUMMARY JUDGMENT**

The plaintiff, Hugh Currie ("Currie"), brought this action against defendant National Railroad Passenger Corporation ("Amtrak"), claiming that he suffered injuries as the result of the defendant's negligence. Defendant Amtrak has moved for summary judgment. For the reasons set forth below, the defendant's motion is being granted.

I. Factual Background

On the evening of May 19, 2005, the plaintiff consumed approximately five large tequila-based margarita cocktails at a New Haven restaurant before walking to the New Haven Railroad Station. The plaintiff testified that it was starting to get dark when he arrived at the station. The sun set at 8:08 pm on May 19, 2005. The plaintiff testified that he used cash to purchase a one-way ticket for a Shoreline East train from New

Haven to Madison, Connecticut from an Amtrak/Shoreline East ticket window, but he does not have a receipt for the ticket or the ticket itself. The plaintiff described the ticket agent as middle-aged Caucasian man with thinning hair. (Def's Mot.Summ.J. (Doc. No. 33) Ex. A., Currie Dep. Tr. at 113:20-114:4) ("Currie Dep. Tr."). Wanda Crudup, an African-American female, was the only Amtrak ticket agent working at the time that the plaintiff was at the train station. The ticket machine assigned to Wanda Crudup registered the sale of a one-way \$4 cash ticket to Madison on the Shoreline East train at 7:52 p.m. However, the plaintiff has identified the ticket agent he purchased a ticket from as Paul Constantinople, a Metro-North ticket clerk. (Pl's Mem. Opp. (Doc. No. 35) Ex. 4, Currie Aff. § 4). The plaintiff testified that the ticket agent told him that the train was on track number eight, that it was already there, and that it was the last train so he "better hurry." (Currie Dep. Tr. at 48:23-49:1). Without looking at the announcement board in the train station, the plaintiff walked to platform eight and boarded out-of-service Metro-North train number 1570. The train's doors then closed and the train traveled for between seven and fifteen minutes before stopping at the New Haven Train Yard. When the train doors opened, the plaintiff noticed that the train was not stopped at a platform, and he walked throughout the train and yelled for assistance but was unable to find anyone. Unable to see the

ground below the train, the plaintiff jumped from the train car and injured his ankle. He then called 911 with his cell phone. Metro-North police responded, and the plaintiff was transported to Yale New Haven Hospital.

II. Legal Standard

A motion for summary judgment may not be granted unless the court determines that there is no genuine issue of material fact to be tried and that the facts as to which there is no such issue warrant judgment for the moving party as a matter of law. Fed. R. Civ. P. 56(c). See Celotex Corp. v. Catrett, 477 U.S. 317, 322-23 (1986); Gallo v. Prudential Residential Servs., 22 F.3d 1219, 1223 (2d Cir. 1994). Rule 56(c) "mandates the entry of summary judgment . . . against a party who fails to make a showing sufficient to establish the existence of an element essential to that party's case, and on which that party will bear the burden of proof at trial." See Celotex Corp., 477 U.S. at 322.

When ruling on a motion for summary judgment, the court must respect the province of the jury. The court, therefore, may not try issues of fact. See, e.g., Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 255 (1986); Donahue v. Windsor Locks Bd. of Fire Comm'rs, 834 F.2d 54, 58 (2d Cir. 1987); Heyman v. Commerce & Indus. Ins. Co., 524 F.2d 1317, 1319-20 (2d Cir. 1975). It is well-established that "[c]redibility determinations, the weighing

of the evidence, and the drawing of legitimate inferences from the facts are jury functions, not those of the judge." Anderson, 477 U.S. at 255. Thus, the trial court's task is "carefully limited to discerning whether there are any genuine issues of material fact to be tried, not to deciding them. Its duty, in short, is confined . . . to issue-finding; it does not extend to issue-resolution." Gallo, 22 F.3d at 1224.

Summary judgment is inappropriate only if the issue to be resolved is both genuine and related to a material fact. Therefore, the mere existence of some alleged factual dispute between the parties will not defeat an otherwise properly supported motion for summary judgment. An issue is "genuine . . . if the evidence is such that a reasonable jury could return a verdict for the nonmoving party." Anderson, 477 U.S. at 248 (internal quotation marks omitted). A material fact is one that would "affect the outcome of the suit under the governing law." Id. As the Court observed in Anderson: "[T]he materiality determination rests on the substantive law, [and] it is the substantive law's identification of which facts are critical and which facts are irrelevant that governs." Id. Thus, only those facts that must be decided in order to resolve a claim or defense will prevent summary judgment from being granted. When confronted with an asserted factual dispute, the court must examine the elements of the claims and defenses at issue on the

motion to determine whether a resolution of that dispute could affect the disposition of any of those claims or defenses. Immaterial or minor facts will not prevent summary judgment. See Howard v. Gleason Corp., 901 F.2d 1154, 1159 (2d Cir. 1990).

When reviewing the evidence on a motion for summary judgment, the court must "assess the record in the light most favorable to the non-movant and . . . draw all reasonable inferences in its favor." Weinstock v. Columbia Univ., 224 F.3d 33, 41 (2d Cir. 2000) (quoting Delaware & Hudson Ry. Co. v. Consol. Rail Corp., 902 F.2d 174, 177 (2d Cir. 1990)). Because credibility is not an issue on summary judgment, the nonmovant's evidence must be accepted as true for purposes of the motion. Nonetheless, the inferences drawn in favor of the nonmovant must be supported by the evidence. "[M]ere speculation and conjecture" is insufficient to defeat a motion for summary judgment. Stern v. Trustees of Columbia Univ., 131 F.3d 305, 315 (2d Cir. 1997) (quoting Western World Ins. Co. v. Stack Oil, Inc., 922 F.2d 118, 121 (2d. Cir. 1990)). Moreover, the "mere existence of a scintilla of evidence in support of the [nonmovant's] position" will be insufficient; there must be evidence on which a jury could "reasonably find" for the nonmovant. Anderson, 477 U.S. at 252.

Finally, the nonmoving party cannot simply rest on the allegations in its pleadings since the essence of summary

judgment is to go beyond the pleadings to determine if a genuine issue of material fact exists. See Celotex Corp., 477 U.S. at 324. "Although the moving party bears the initial burden of establishing that there are no genuine issues of material fact," Weinstock, 224 F.3d at 41, if the movant demonstrates an absence of such issues, a limited burden of production shifts to the nonmovant, which must "demonstrate more than some metaphysical doubt as to the material facts, . . . [and] must come forward with specific facts showing that there is a genuine issue for trial." Aslanidis v. United States Lines, Inc., 7 F.3d 1067, 1072 (2d Cir. 1993) (quotation marks, citations and emphasis omitted). Furthermore, "unsupported allegations do not create a material issue of fact." Weinstock, 224 F.3d at 41. If the nonmovant fails to meet this burden, summary judgment should be granted. The question then becomes: is there sufficient evidence to reasonably expect that a jury could return a verdict in favor of the nonmoving party. See Anderson, 477 U.S. at 248, 251.

III. Discussion

"The essential elements of a cause of action in negligence are well established: duty; breach of that duty; causation; and actual injury." RK Constructors, Inc. v. Fusco Corporation, 231 Conn. 381, 384 (1994). As to the first element, duty, "a common carrier of passengers for hire has the duty to use the utmost

care consistent with the nature of its business to guard its passengers against all dangers which might reasonably and naturally be expected to occur, in view of all the circumstances, and this high degree of care is required during the period of a passenger's alighting as well as during transportation." Parlato v. Connecticut Transit, 181 Conn. 66, 67 (1980). "The duty owed to a passenger includes the duty of the carrier to protect a passenger who is unable to protect himself, such as an intoxicated person" Douglass B. Wright, et al., Connecticut Law of Torts § 85 (3d Ed. 1991). "A common carrier, having upon its train a passenger who is so intoxicated as not to be able to look out for his own safety, when it knows or in the exercise of reasonable care should know his condition, is bound to exercise a degree of care for his protection commensurate with his inability to guard himself from danger." Dokus v. Palmer, 130 Conn. 247, 250 (1943).

Common carriers owe a duty to passengers. Assuming arguendo that the plaintiff was a passenger and that the defendant owed a duty to him, the plaintiff cannot establish the second element of negligence, i.e. that the defendant breached such a duty. The defendant argues that it did not breach a duty owed to the plaintiff because the plaintiff never spoke to or

sought information from Amtrak personnel.¹ The plaintiff contends that a genuine issue of material fact exists as to whether the defendant breached a duty to the plaintiff because the plaintiff was intoxicated in the train station. The plaintiff argues that Amtrak breached its duty because it failed to give him directions to the correct platform and train, failed to announce the correct platform on the station's public address system,² and failed to provide Amtrak employees on the platform itself to direct him to the correct train. The cases that the plaintiff relies on, Dokus v. Palmer, 130 Conn. 247 (1943), and McMahon v. New York, N.H. & H.R. Co., 136 Conn. 372 (1950), are inapposite. In both Dokus and McMahon, the defendants' employees had seen the intoxicated plaintiffs on board of the defendants' trains prior to the plaintiffs being injured. Dokus, 130 Conn. at 254-254; McMahon, 136 Conn. at 372. Here, there is no evidence that even suggests that the plaintiff spoke to or sought information from an Amtrak employee, or that any Amtrak employee saw the plaintiff in his intoxicated state during the brief time

¹The defendant also argues that it owed no duty to the plaintiff because he was not a passenger and that, assuming that an Amtrak ticket agent directed the plaintiff to the out-of-service Metro-North train, such directions were not the proximate cause of the plaintiff's injuries. The court does not need to reach these issues.

² The plaintiff testified that he did not recall hearing an announcement while he was at the train station. (Currie's Dep. Tr. at 51:23-25). There is no further information in the record as to whether or not any announcements were made.

he was inside the train station. Furthermore, the plaintiff boarded a Metro-North, not an Amtrak, train. The only evidence suggests that Amtrak neither knew, nor should have known, about the plaintiff's intoxicated condition. Thus, the plaintiff has failed to offer evidence that could establish that Amtrak breached a duty it owed to him. Because the plaintiff cannot establish breach of duty, no jury could reasonably find for the plaintiff on the issue of whether there was negligence on the part of Amtrak, and Amtrak is entitled to summary judgment on the plaintiff's claim.

IV. Conclusion

For the reasons set forth above, the Defendant National Railroad and Passenger Corporation's Motion for Summary Judgment (Doc. No. 33) is hereby GRANTED. The Clerk shall enter judgment in favor of the Defendant National Railroad Passenger Corporation only.

It is so ordered.

Dated this 11th day of July 2008 at Hartford, Connecticut.

/s/AWT

Alvin W. Thompson
United States District Judge