

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CLAUD CALVIN YOUNG and DORIS YOUNG : CIVIL ACTION
:
v. :
:
UNITED STATES OF AMERICA, ET AL. : NO.02-343

MEMORANDUM

Padova, J.

October 15, 2002

Plaintiffs have brought this personal injury suit against the United States, Northampton Township, Stephen and Joan Haegele, and Bonnie H. Nolte, arising out of an automobile accident which occurred on August 11, 2000. Before the Court is the Motion for Summary Judgment brought by Defendants Stephen and Joan Haegele. For the reasons which follow, Defendants' Motion is granted.

I. BACKGROUND

On the afternoon of August 11, 2000, Claud Calvin Young ("Young") was driving on Sackettsford Road in Northampton Township, Bucks County, Pennsylvania approaching a sharp curve to the right. Pl.'s Ex. B at 22, 42-43. It was raining. Id. at 22. As Plaintiff came around the curve, he saw a United States Postal Service mail truck stopped on the road in front of him. Id. at 43, 50-51. There is evidence that the mail truck was blocking the road. Pl.'s Ex. C at 5. He swerved into the opposing lane of Sackettsford Road to avoid hitting the mail truck and collided with a cement mixer going in the opposite direction. Pl.'s Ex. B at 43. He was severely injured as a result of the accident.

Sackettsford Road is a two lane road with one lane in each direction. Id. at 42. The speed limit on Sackettsford Road is 40 m.p.h. Pl.'s Ex. F at 24. There is an advisory sign before the curve to advise traveling motorists to negotiate the curve at 30 m.p.h. Id. at 64-66. Young was driving 30 m.p.h. Pl.'s Ex. B at 39.

The mail truck was stopped in the vicinity of the mailbox for 743 Sackettsford Road. Pl.'s Ex. C at 7. 743 Sackettsford Road is located on the north side of Sackettsford Road. Id. at 5. On August 11, 2000, the mailbox for 743 Sackettsford Road was located on property owned by Bonnie Nolte on the south side of Sackettsford Road because curbside mail delivery was only made on the south side of that portion of Sackettsford Road. Pl.'s Ex. N at 5, 9-10, Pl.'s Ex. H. The mailbox had been located on Nolte's property for approximately 55 years. Pl.'s Ex. E at 23-24.

The Postal Service controls the location of mailboxes. It makes the initial decision as to where a mailbox will be located when the house is first built. Pl.'s Ex. G at 9-10, 14, 24. Mailbox locations are not often changed after first being selected by the post office, but the Postal Service has asked customers to move their mailboxes for safety reasons. Id. at 11-12. However, the Postal Service is generally reluctant to relocate mailboxes due to a need to keep delivery routes standard and established. Id. at 11 and 37. Approximately four years ago, the Haegeles, who

believed that traffic coming around the curve on Sackettsford Road made it dangerous for them to cross the street to pick up their mail, sought to move the mailbox to their property. Pl.'s Ex. N at 11 and 30. They approached their mailman, Daniel Owarznai, about moving the mailbox and were told that they had to contact the post office and obtain the postmaster's approval. Pl.'s Ex. L. at 554-55. Stephen Haegele had asked the postmaster to move the mailbox onto his property and the postmaster refused. Pl.'s Ex. N at 11-12, Pl.'s Ex. 0 at 13.

II. STANDARD OF REVIEW

Summary judgment is appropriate "if the pleadings, depositions, answers to interrogatories, and admissions on file, together with affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(c). An issue is "genuine" if the evidence is such that a reasonable jury could return a verdict for the non-moving party. Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248 (1986). A factual dispute is "material" if it might affect the outcome of the case under governing law. Id.

A party seeking summary judgment always bears the initial responsibility for informing the district court of the basis for its motion and identifying those portions of the record that it believes demonstrate the absence of a genuine issue of material

fact. Celotex Corp. v. Catrett, 477 U.S. 317, 322 (1986). Where the non-moving party bears the burden of proof on a particular issue at trial, the movant's initial Celotex burden can be met simply by "pointing out to the district court that there is an absence of evidence to support the non-moving party's case." Id. at 325. After the moving party has met its initial burden, "the adverse party's response, by affidavits or otherwise as provided in this rule, must set forth specific facts showing that there is a genuine issue for trial." Fed. R. Civ. P. 56(e). That is, summary judgment is appropriate if the non-moving party fails to rebut by making a factual 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." Celotex, 477 U.S. at 322. Evidence introduced to defeat or support a motion for summary judgment must be capable of being admissible at trial. Callahan v. AEV, Inc., 182 F.3d 237, 252 n.11 (3d Cir. 1999)(citing Petruzzi's IGA Supermarkets, Inc. v. Darling-Delaware Co., 998 F.2d 1224, 1234 n.9 (3d Cir. 1993)). The Court must view the evidence presented on the motion in the light most favorable to the opposing party. Anderson, 477 U.S. at 255. However, "mere allegations, bare assertions or suspicions are not sufficient to defeat a motion for summary judgment." Felton v. Southeastern Penn. Transp. Auth., 757 F. Supp. 623, 626 (E.D. Pa. 1991) (citation omitted).

III. DISCUSSION

The Complaint alleges two counts against Stephen and Joan Haegele for negligence. The Complaint alleges that the Haegeles were negligent in:

- (a) Failing to place, properly maintain or move the mail box serving their residence at 743 Sackettsford Road, in, at or to a location that would not cause postal vehicles to block the eastbound travel lane of Sackettsford Road in a sharp horizontal curve with inadequate sight distance in order to deliver their mail;
- (b) Failing to keep the approach to their mailbox clear of obstructions, thereby preventing safe access for delivery, in violation of Federal Regulations and the Domestic Mail Manual of the Postal Service;
- (c) Failing to control the overgrowth of vegetation on the inside of the aforesaid sharp horizontal curve that severely limited the sight distance of the plaintiff Claud Young, and others similarly situated, contrary to established standards, the laws of Pennsylvania and Federal Regulations; and
- (d) Failing to inspect their mailbox, failing to recognize the inherent danger of its location, and failing to request permission to move their mailbox to a safer location for delivery of mail;
- (e) Failing to exercise ordinary care to avoid injuring others and failing to use reasonable care under the circumstances with regard to the placement and maintenance of their mailbox, in violation of the common law of the Commonwealth of Pennsylvania.

Compl. ¶ 38. The Haegeles contend that they are entitled to summary judgment on Plaintiffs' claims against them because they

owed no duty to Plaintiffs since they did not place the mailbox on the Nolte property and did not control the placement of the mailbox. To succeed on a cause of action for negligence under Pennsylvania common law, Plaintiffs must prove the following:

1. A duty, or obligation, recognized by the law, requiring the actor to conform to a certain standard of conduct, for the protection of others against unreasonable risks.
2. A failure on the person's part to conform to the standard required: a breach of the duty.
3. A reasonably close causal connection between the conduct and the resulting injury.
4. Actual loss or damage resulting to the interest of another.

Moreover, the mere happening of an accident does not entitle the injured person to a verdict; [a] plaintiff must show that defendant owed him a duty and that duty was breached.

Ney v. Axelrod, 723 A.2d 719, 721 (Pa. Super. Ct. 1999) (citations omitted).

Plaintiffs contend that the Haegeles had a duty created by postal regulations to move the mailbox to a safer location, either on their own property or farther up Sackettsford Road, and to clear the vegetation around the mailbox, which would have made it easier for Young to see the mail truck on the day of the accident. The Postal Operations Manual requires postal customers to ensure that curbside mailboxes are placed where they can be "safely and conveniently served by carrier without leaving their conveyances. They must be reasonably and safely accessed by customers." Postal

Operations Manual, Subpart 632.524. In addition, the Domestic Mail Manual requires customers to "keep the approach to their mailboxes clear of obstructions to allow safe access for delivery. If USPS employees are impeded in reaching a mail receptacle, the postmaster may withdraw delivery service." Domestic Mail Manual, subpart 1.4. These regulations, however, do not have the force of law. Doe v. United States, 718 F.2d 1039, 1041 (11th Cir. 1983); see also Shrieve v. United States, 16 F. Supp. 2d 853, 858 (N.D. Ohio 1998) ("internal regulations of the post office, such as those found in the Postal Operations Manual, lack the force of law and their violation does not show negligence per se.") Moreover, to the extent that these regulations require the Haegeles to conform to a standard of conduct, they require the Haegeles to make sure that the mailman can get to their mailbox without leaving his mail truck.

There is no evidence on the record of this Motion that the location of the mailbox, or the vegetation around it, kept the mailman from delivering mail to the Haegeles' mailbox from his mail truck. In fact, Daniel Owarzani, testified at his deposition that he never notified anyone on Sackettsford Road that vegetation had to be cleared so that he could pull up to a mailbox on that road. Pl.'s Ex. L at 26-28. He also testified that when he delivers mail to 743 Sackettsford Road he is able to pull his mail truck partially off of the road onto a ditch where the mailbox is located

off of the side of the road. Id. at 43-44, 51-52. Consequently, these postal regulations did not create a duty on the part of the Haegeles to have moved their mailbox to a safer location or to have cleared vegetation around the mailbox for the benefit of Plaintiffs.

Plaintiffs also maintain that the Haegeles were aware that the mailbox was in a dangerous location and owed a general duty of care to others to have moved the mailbox or cleared away the nearby vegetation. The Haegeles have admitted that they had not cleared vegetation around the mailbox. Pl.'s Ex. N. at 9. Plaintiffs rely on Rogers v. Daigle, 643 So.2d 758 (La. App. 1 Cir. 1994). Scott Rogers was killed when a car in which he was a passenger, driven by Daigle, struck a three hundred pound mailbox on the shoulder of the highway on which they were traveling. Id. at 760. The Louisiana Court of Appeal found that the owners of the mailbox should have been found to be three percent (3%) negligent in the accident because they:

should have been aware that the mailbox presented a hazard, given the many accidents on the highway in front of their property involving telephone poles and trees. In particular, two accidents occurred in a manner similar to the one in the case at bar, and in one of these accidents, a vehicle hit the mailbox, destroying it; at that point, they should have realized it was hazardous to drivers on Highway 316. Yet, Calongne and Chauvin did not consider removing the mailbox, but instead rebuilt it in the same style and location.

Id. at 763. None of the factors relied on by the Rogers court in assigning liability to the mailbox owners appear on the record of this Motion. There is no evidence of prior accidents in the area of the Haegeles' mailbox or prior accidents involving that mailbox. Moreover, Plaintiffs admit that they have found no cases in Pennsylvania in which a homeowner was held liable in these circumstances. The Court finds that, in the absence of any evidence of prior accidents in that location, the Haegeles did not have a duty to Plaintiffs to move the mailbox or clear vegetation growing around it on property belonging to Nolte. Defendants Stephen and Joan Haegeles' Motion for Summary Judgment is, therefore, granted.

An appropriate order follows.

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ORDER

AND NOW, this 15th day of October, 2002, in consideration of the Motion for Summary Judgment filed by Defendants Stephen and Joan Haegele (Docket No. 31) and Plaintiffs' response thereto, **IT IS HEREBY ORDERED** that the Motion is **GRANTED** pursuant to Federal Rule of Civil Procedure Rule 56 and **JUDGMENT** is entered in favor of Defendants Stephen and Joan Haegele and against Plaintiffs.

BY THE COURT:

John R. Padova, J.