

RECEIVED

Jan 31 2023

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

Bentley D. Price, Circuit Court Judge

Appellate Case No.: 2022-000754

Case No. 2020-CP-2481

Stefani Eddins,

Appellant,

vs.

Tall Sam I Am, LLC d/b/a Tabbuli,

Respondent.

FINAL REPLY BRIEF OF APPELLANT

GARY C. JOHNSON, P.S.C.
Michael E. Liska
SC Bar No. 102542
P.O. Box 55106
Lexington, KY 40505
Tel: 859-268-4300
Fax: 859-268-7318
Email: mliska@garycjohnson.com

THE NYE LAW GROUP P.C.
Justin D. Maines
SC Bar No. 76668
2008 Whitaker Street
Savannah, Georgia 31401
Tel: (912) 200-5230
Fax: (912) 335-6553
Email: jd@thenyelawgroup.com
Attorneys for Appellant

TABLE OF CONTENTS

Table of Authorities	n/a
Reply Arguments	1
1. THE SUBJECT LIGHT IS NOT A STANDARD LIGHT FIXTURE, BUT A TEMPORARY PORTABLE OUTDOOR STAGE LIGHT THAT COMES WITH SPECIAL SAFETY PRECAUTIONS AND DUTIES OWED.....	1
2. THIS IS NOT RES IPSA.....	2
3. APPELLANT DID NOT ARGUE RESPONDENT OWED A DUTY TO PROVIDE AN “ABSOLUTELY SAFE PREMISES”	2
Conclusion	2

REPLY ARGUMENTS

I. THE SUBJECT LIGHT IS NOT A STANDARD LIGHT FIXTURE, BUT A TEMPORARY PORTABLE OUTDOOR STAGE LIGHT THAT COMES WITH SPECIAL SAFETY PRECAUTIONS AND DUTIES OWED

Respectfully, Respondent is burying the fact that the subject light is not just a standard light fixture that is installed in a restaurant ceiling by a building contractor during the construction process. Rather, the subject light is a temporary portable outdoor stage light. Due to its temporary portable nature and intended use, the temporary portable outdoor stage light comes with special safety precautions and duties owed on the part of a restaurant to prevent harm to patrons. The special safety precautions and duties include not seating patrons under the temporary portable stage light. The reason for this duty is that the industry knows that temporary portable stage lights can fall due to their temporary portable nature and propensities for which they are designed. The industry knows sound vibrations, wind, moisture, and even direct contact can make these lights fall because of their design. The special safety precautions and duties also include someone at the restaurant supervising the placement of the light to make sure that it has been properly bracketed and further secured with a backup safety chain. If the light does fall, the hope is that the safety chain will then catch the light before any harm occurs.

In this case, Respondent violated these duties and special safety precautions. Respondent seated Appellant directly underneath the temporary portable stage light. There is no evidence at all to controvert Respondent's violation of that duty. Respondent seated Appellant under the light after failing to have someone at the restaurant supervise the placement of the light to make sure that it was properly bracketed and further secured with a backup safety chain. This second duty violation is not *res ipsa*. There is absolutely no evidence that a safety chain was in place. The only evidence via the video of the light falling unhindered, the photographs, and testimony, all reviewed

by the experts, is that there was no safety chain. If that weren't enough, Respondent also investigated the incident the night it happened and concluded the light fell because it was not properly secured.

II. THIS IS NOT RES IPSA

Respondent wants to argue this is a res ipsa case. [Brief of Respondent, p. 18.] This is not res ipsa. Respondent seated Appellant under the light and there was no safety chain.

III. APPELLANT DID NOT ARGUE RESPONDENT OWED A DUTY TO PROVIDE AN "ABSOLUTELY SAFE PREMISES"

Respondent argues it does not have to provide an "absolutely safe premises." [Brief of Respondent, p. 17.] Even if that were true despite the duty Respondent undertook in this case, Appellant nowhere states Respondent owed a duty to provide an "absolutely safe premises."

However, Respondent's duty and negligence are not limited to just the exact moment the light fell. Rather, Respondent's failures started much earlier in the day when it failed to monitor whoever set up the light, not making sure the safety measures were in place, and THEN continued when seating a patron in direct harm's way underneath the light.

CONCLUSION

For the additional reasons set forth above, Appellant respectfully requests that this Court REVERSE the trial court's decision to grant Respondent's Motion for Summary Judgment.

GARY C. JOHNSON, P.S.C.

/s/ Michael E. Liska
Michael E. Liska
SC Bar No. 102542
P.O. Box 55106
Lexington, KY 40505
Tel: 859-268-4300
Fax: 859-268-7318
Email: mliska@garycjohnson.com
Attorneys for Appellant

Dated: January 31, 2023
Hilton Head Island, South Carolina

RECEIVED

Jan 31 2023

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

Bentley D. Price, Circuit Court Judge

Appellate Case No.: 2022-000754

Case No. 2020-CP-2481

Stefani Eddins,

Appellant,

vs.

Tall Sam I Am, LLC d/b/a Tabbuli,

Respondent.

CERTIFICATE OF COUNSEL

The undersigned certifies that this Final Reply Brief of Appellant complies with Rule 211(b), SCACR.

January 31, 2023

GARY C. JOHNSON, P.S.C.

/s/ Michael E. Liska _____

Michael E. Liska

SC Bar No. 102542

2265 Executive Drive

P.O. Box 55106

Lexington, KY 40505

Tel: 859-268-4300

Fax: 859-268-7318

Email: mliska@garycjohnson.com

Attorneys for Appellant