

New York Revises Common Carriers' Standard of Care

by Roy D. Pinsky

New York's highest court has ruled that the common carrier's duty of extraordinary care is no longer viable and has realigned the standard of care required of common carriers with the traditional, basic negligence standard of reasonable care under the circumstances.

The court in Bethel vs. New York City Transit Authority, 92 N.Y.2d 348 (N.Y. Oct 15, 1998) has overturned a standard of care that has been in place for over a century. The court explained that the extraordinary care standard had been adopted in the 19th century to limit the substantial growth in personal injury litigation resulting from the development of steam railroads and their primitive safety features. The court found that "In this century, however, through technical advances and intense governmental regulation, public conveyances*** have become at least as safe as private modes of travel."

The court reasoned "There is no empirical or policy basis why, in the case of common carriers, the reasonable care standard is not similarly sufficient to permit triers of fact to take into account all of the hazardous aspects of public transportation in deciding whether due care was exercised in a particular case."

In light of the charge that the jury had received, the case was remitted to Supreme Court for a new trial.

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