

Not For Publication in West's Federal Reporter
Citation Limited Pursuant to 1st Cir. Loc. R. 32.3

United States Court of Appeals For the First Circuit

No. 03-1745

JOSE A. NUÑEZ-SANTIAGO, ET AL.,
Plaintiffs,

v.

PUERTO RICO ELECTRICAL POWER AUTHORITY, ET AL.,
Defendants, Appellants,

v.

CARIBBEAN RESTAURANTS, ET AL.,
Cross-Defendants, Appellees.

APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO
[Hon. Raymond L. Acosta, Senior U.S. District Judge]

Before
Selya and Howard, Circuit Judges,
and Singal,* District Judge.

Evan Slavitt, with whom Bodoff & Slavitt LLP, David C. Indiano, Alexander Bopp and Indiano & Williams, P.S.C. were on brief, for appellants.

Amancio Arias Guardiola, with whom Arias Cestero & Arias Guardiola was on brief, for appellees.

May 5, 2004

*Of the district of Maine, sitting by designation.

Per curiam. Jose Alberto Nuñez Gomez, then three years old, was injured on March 21, 1999 when he placed his hand inside an unlocked electrical box owned by Puerto Rico Electrical Power Authority ("PREPA") and located near a Burger King restaurant operated by Caribbean Restaurants. The child and his parents sued the electric company and Caribbean Restaurants, together with various other defendants, for negligence under Puerto Rico's civil code. PREPA cross-claimed against Caribbean Restaurants.

At trial, the district court granted Caribbean Restaurants' motions for judgment as a matter of law against both the plaintiffs and PREPA, ruling that there was insufficient evidence upon which a jury could find that Caribbean Restaurants had breached a duty of care. The jury found PREPA to have been negligent and awarded damages. After the verdict but before judgment was entered against it, PREPA settled with the plaintiffs. Now PREPA appeals the judgments as a matter of law in Caribbean Restaurants' favor, apparently seeking to force Caribbean Restaurants to contribute to the settlement payments to the plaintiffs. The plaintiffs are not involved in this appeal.

Orders granting motions for judgment as a matter of law are reviewed *de novo*. Hochen v. Bobst Group, Inc., 290 F.3d 446, 453 (1st Cir. 2002). Like the district court, this court examines

the evidence and all fair inferences in the light most favorable to the non-movant to determine whether the non-movant has offered "more than a mere scintilla of evidence" warranting the submission of the issue to the jury. Id. A district court's order of judgment as a matter of law will be affirmed only if "applying these standards, the evidence does not permit a reasonable jury to find in favor of appellants." Id.

Having reviewed the record in the light of this standard of review, this court is fully satisfied that the district court acted appropriately in granting Caribbean Restaurants' motions for judgment as a matter of law. The facts are well known to the parties, and a fact-intensive written analysis would be of no import to anyone other than them. The rulings below are **affirmed.**