
COURT SUMMARILY DISMISSES VOLUNTEER'S PERSONAL INJURY CLAIM AGAINST A CHURCH

*By Sean S. Carter**

A. INTRODUCTION

In the recent summary judgment ruling in [*Baltadjian v The Roman Catholic Episcopal Corporation for the Diocese of Alexandria*](#), the Ontario Superior Court of Justice (the “Court”), on a summary judgement motion, dismissed the personal injury claim of Hrant Baltadjian (“Baltadjian”), a volunteer at The Roman Catholic Episcopal Corporation for the Diocese of Alexandria (the “Church”), on the basis that he had failed to prove the Church was negligent or had provided defective equipment and/or an unreasonably safe work environment. In coming to its decision, the Court relied heavily on its findings that Mr. Baltadjian was, of his own volition, performing a task that went beyond the scope of his assigned tasks at the Church and that the Church had taken sufficient reasonable risk management steps to ensure a safe working environment.

B. RELEVANT FACTS

Mr. Baltadjian was a parishioner of the Church who sustained injuries after he fell from an eight-foot stepladder at a parish church building in Alexandria while attempting to install some ceiling trim. Prior to the incident in question, the Church had sought volunteers to assist with the painting of the parish church building's twelve foot interior walls and ceilings. Mr. Baltadjian volunteered. Before he started, Mr. Baltadjian advised the supervisor (another volunteer) that he had previous experience painting and was comfortable painting from a ladder, and the supervisor advised Mr. Baltadjian of the 3-point contact

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expectation that the Church had with respect to the use of ladders. Over a period of several weeks Mr. Baltadjian proceeded to paint at the parish church building without incident.

On February 1, 2011, Mr. Baltadjian went beyond his painting duties and took it upon himself to install a short piece of ceiling trim. Before he tried to do so, the supervisor expressed concerns to Mr. Baltadjian and said that he would prefer to get the painting done, as opposed to installing the trim. However, according to the supervisor, Mr. Baltadjian was insistent on installing the trim, and so he did not object to the matter any further. After working on the trim for about an hour, and going up and down the stepladder several times without incident, Mr. Baltadjian then fell from the stepladder and suffered a head injury and was in a coma for twenty-five days. As a result, Mr. Baltadjian brought a claim against the Church alleging that the Church had breached its duty of care by providing him with defective equipment and by failing to provide him with a reasonably safe work environment in which he was to work, amongst other things.

C. THE COURT'S DECISION

In its analysis, the Court referred to subsection 3(1) of the *Occupiers' Liability Act*, which imposes a positive duty on occupiers to ensure persons entering, and property brought onto, their premises are "reasonably safe", and subsection 4(1) which states that the duty does not apply to "risks willingly assumed by someone who enters the premises." However, ultimately the Court concluded that "[t]here was no objectively unreasonable risk of harm inherent in the tableau", and that even if there was, "the plaintiff undertook this task of his own volition contrary to the instruction from [the supervising volunteer]", and further that the supervising volunteer "was not in a position of authority over the plaintiff." The Court also noted that the equipment met the necessary specifications and that the work area was "stable and free of debris." Throughout the Court's decision, in addition to the finding that the plaintiff was acting outside the scope of his duties, it was clear that reasonable, proactive steps taken by the Church to reduce likelihood of injury were essential to the Court's finding that there was sufficient evidence (without a trial, relying solely on evidence adduced during examinations for discovery) to find that the Church was not negligent or responsible at law for the plaintiff's injuries.

D. CONCLUSION

The Court's decision in *Baltadjian* is an excellent reminder to charities and not-for-profits of the importance of proactive risk management when dealing with employees and especially volunteers in all

aspects of potential activities, but particularly those that are prone to accidents and injury (such as construction). As the Court noted, the standard is not “perfection”, but as long as the organization can sufficiently prove that proactive steps were taken, like in this case, that a reasonably safe working environment exists with clear instructions, this can be critical to a successful defence of liability in situations (like construction) where accidents and injuries are likely to happen. The documentation and ability to potentially later prove that the organization took those steps is just as essential as the proactive risk management steps themselves. Legal counsel can assist with formulating a reasonable and effective due diligence strategy which gives the organization the strongest case if a claim should arise, like the one in Baltadjian, to best defend and protect the organization from liability.



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