

COFFEY v. NICHOLSON TRANSIT CO., 138 F.2d 915 (2nd Cir. 1943)

COFFEY v. NICHOLSON TRANSIT CO.

No. 115.Circuit Court of Appeals, Second Circuit.

November 23, 1943.

Appeal from the District Court of the United States for the Western District of New York.

Action by Michael Coffey against Nicholson Transit Company to recover for personal injuries. From a judgment for plaintiff on a verdict of the jury, the defendant appeals.

Affirmed.

Laurence E. Coffey, of Buffalo, N.Y. (Brown, Ely Richards, of Buffalo, N.Y., and Edward H. Yost and Foster, Yost Lott, all of Detroit, Mich., of counsel), for appellant.

William J. Brock, of Buffalo, N.Y. (Philip Halpern, of Buffalo, N Y, of counsel), for appellee.

Before SWAN, AUGUSTUS N. HAND, and CHASE, Circuit Judges.

PER CURIAM.

The plaintiff was an employee of a stevedoring contractor engaged in discharging a cargo of grain from the defendant's vessel. He sustained injuries in falling from an unlashed ladder which slipped while he was ascending it from the between deck. The issues left to the jury were whether the defendant failed in its duty to furnish the grain handlers with a reasonably safe means of egress from the holds, and whether the plaintiff himself was guilty of negligence which contributed to the accident. Error is assigned to the court's

refusal to direct a verdict for the defendant. Without reciting the evidence it will suffice to say that the plaintiff made a case which amply justified submission of these issues to the jury. The contention that the court erred in declining to give a requested instruction is too unsubstantial to merit discussion.

Judgment affirmed.

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