

RICHARD E. ROYER JR. et al.

v.

MANKTOWN LLC

Submitted on Briefs April 24, 2019
Decided May 2, 2019

Panel: SAUFLEY, C.J., and ALEXANDER, MEAD, GORMAN, JABAR, HJELM, and HUMPHREY, JJ.

MEMORANDUM OF DECISION

Richard E. Royer Jr. and Amy Royer appeal from a judgment for Manktown LLC on the Royers' negligence and loss of consortium claims, entered by the Superior Court (Waldo County, *R. Murray, J.*) after a jury trial. *See* 14 M.R.S. § 1851 (2018); M.R. App. P. 2B(c)(1). Contrary to the Royers' contentions, the trial court did not abuse its discretion by declining to give the jury a curative instruction after Manktown's opening statement.¹ *See Caruso v. Jackson Lab.*, 2014 ME 101, ¶ 23, 98 A.3d 221; *Miller v. Szelenyi*, 546 A.2d 1013, 1018 (Me. 1988). Nor did the court err in its jury instruction on premises liability. *See Caruso*, 2014 ME 101, ¶¶ 12, 15, 98 A.3d 221; *State v. Hanaman*, 2012 ME 40, ¶ 16, 38 A.3d 1278; *Stewart v. Aldrich*, 2002 ME 16, ¶¶ 10-14, 16, 788 A.2d 603; *Chiu v. City of Portland*, 2002 ME 8, ¶¶ 11-12, 788 A.2d 183.

¹ Although Manktown's counsel should have refrained from making legal arguments during his opening statement, *see State v. Bernier*, 486 A.2d 147, 149 (Me. 1985); Park & Orenstein, *Trial Objections Handbook, Objections to Opening Statements* § 10:31 (2018-2019 ed.), it was well within the court's broad discretion to decline to issue a curative instruction at that stage of the trial, *Miller v. Szelenyi*, 546 A.2d 1013, 1018 (Me. 1988).

The entry is:

Judgment affirmed.

Margaret Machaiek, Esq., Briggs & Wholey, LLC, Rockport, for appellants
Richard and Amy Royer

David C. King, Esq., and Tracy B. Collins, Esq., Rudman Winchell, Bangor, for
appellee Manktown LLC

Waldo County Superior Court docket number CV-2017-1
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