

Firefighters can sue those who cause them injuries

by Bradley M. Pinsky

In this case, a firefighter was injured while on land used to fill the engines. The firefighter was filling from a lake and fell off of a poorly constructed wall, which did not have guardrails or decking.

The court held that the firefighter may sue the landowner and recover money for his injuries when the landowner knew of the potential danger and where the danger was not obvious to the firefighter.

Scicchitano & Pinsky can assist firefighters and other rescue personnel who are injured on a scene due to the negligence of non-firefighters. Firefighters are permitted to sue not only landowners, but drivers of vehicles, bystanders, or any other people who cause them injury. Workers compensation is rarely adequate to compensate firefighters injured by another and a lawsuit may be the only means of getting the injured firefighter the compensation s/he deserves.

Gary W. Sadler et al., Appellants, v. Town of Hurley et al., Respondents, et al., Defendant.

SUPREME COURT OF NEW YORK, APPELLATE DIVISION, THIRD DEPARTMENT

February 8, 2001, Decided

On September 24, 1993 at approximately 3:00 A.M., plaintiff Gary W. Sadler, a volunteer firefighter with third-party defendant, Olive Fire Department No. 1, Inc., went to Kenoza Lake, located on Boyce Road in the Town of Hurley, Ulster County, to assist in pumping water from the lake into tanker trucks. The lake was owned by defendant Tonche Association, Inc., which had an agreement with the fire department permitting it to use the lake to extract water for use in firefighting. Upon arriving at the lake, Sadler began assisting in setting up a pumper truck. As he walked toward the truck to obtain his gear, he was unable to see the ground due to poor lighting and fell off the side of the dam and into the lake, sustaining serious injuries.

Consequently, Sadler and his wife, derivatively, commenced this action in December 1994 against Tonche and defendant Town of Hurley alleging that they negligently maintained the dam and road at the end of the lake, which caused Sadler's fall and injuries.

[words deleted]

It is axiomatic that Tonche, as a landowner, had a duty to maintain its property in a reasonably safe condition and to warn individuals lawfully on its property of latent dangerous conditions (see, *Comeau v Wray*, 241 AD2d 602, 603). The record reveals that Tonche was aware that fire department volunteers would be on its property to extract water from the lake in order to fight fires. Plaintiffs' expert opined that Sadler's accident was caused by the negligent construction and maintenance of the dam due to its irregular shape and the absence of guardrails and decking over an indentation along the dam where Sadler fell.

[decision in favor of firefighter]

