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3/27/15 - Judge RICHARD S. FIELDS - CV 2013-4100 - MASSEY (Joel B. Robbins of Robbins & Curtin, P.L.L.C.; John P. Torgenson and C. Daniel Dilizia of Benedetto Torgenson Maurer, P.L.C.) v QURASHY (Douglas W. Glasson, JC C. Patrascioiu, and David L. Curl of Curl & Glasson, P.L.C.) - WRONGFUL DEATH - PREMISES LIABILITY - INADEQUATE ILLUMINATION - FALL. Decedent son, age 48, a handyman and day laborer, was survived by his mother, in her mid-seventies, who brought suit for his wrongful death. Plntf alleged Decedent son, who lived with Plntf mother, was her primary caregiver, had worked at Dfnt's residence for several years, and was picked up and taken to Dfnt's residence by Dfnt. Plntf also alleged Dfnt had covered the bottom of his home's attic with blown-in insulation which hid a platform/walkway in the attic, and created a hazardous condition, which caused Decedent son to fall through the ceiling. Plntf called Jeffrey M. Lange, a safety expert, who was of the opinion that the attic was unreasonably dangerous. It was also Mr. Lange's opinion that the attic's poor illumination and the presence of blown-in insulation on top of batt-insulation, made it difficult to safely move about the attic. Dfnt, in his mid-forties, a registered nurse, denied liability, advancing the defense that he and Decedent son both went into the attic and Dfnt showed the work area to Decedent son. Dfnt alleged he had noticed a leak in the ceiling and had moved some insulation to locate the source of the leak. Dfnt also alleged he and Decedent son left the premises to purchase the materials necessary to repair the

leak, and upon their return, Decedent son went to the attic alone. Dfnt called Michael J. Kuzel, P.E., a safety and human factors engineer, who was of the opinion that Dfnt's attic met all applicable building codes and standards, and no dangerous condition existed. It was also Mr. Kuzel's opinion that Decedent son must have had a low center of gravity prior to his fall, as though he was kneeling at the site of the leaking pipe. Additionally, it was Mr. Kuzel's opinion that Plntf, who fell through the ceiling headfirst, made no attempt to catch himself as he fell, which supported the conclusion that Decedent son was unconscious before he fell. Plntf alleged that, as a result of Dfnt's negligence, Decedent son sustained blunt force trauma to his head and died. Dfnt argued that Decedent son's fall was most consistent with Decedent son passing out from low blood sugar, low blood pressure, a heart attack, or excessive heat. Prayer: Just and reasonable compensatory damages. Plntf made a \$500,000 offer of judgment, and indicated a willingness to take less - Dfnt made a \$1,000 offer of judgment, and indicated no willingness to discuss settlement (P Robbins & D Patrascioiu). (Carrier: State Farm Insurance.) During closing arguments, Plntf's counsel argued that Dfnt sent Decedent son to work in an attic that had no ventilation, during the hottest part of the day and, if Decedent son had passed out due to the heat, Dfnt was liable. Plntf's counsel also argued that Dfnt did not report the incident to his insurance carrier for several days, which suggested that he could have altered the scene after the incident. Plntf's counsel asked jury to award Plntf \$1 million past damages, plus \$50,000 per year future damages for her life expectancy of 8.8 years. Defense counsel argued no hazardous condition existed in the attic. Four day trial. By stipulation, nine jurors deliberated. Jury out two hours. FOUND FOR DFNT. 6 - 3 (per P) or 7 - 2 (per D).

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