



Case Summaries January 19, 2024

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OPINIONS

NEGLIGENCE

Duty

HNMC, Inc. v. Chan, ___ S.W.3d ___, 2024 WL ____ (Tex. Jan. 19, 2024) [[22-0053](#)]

The issue in this case is whether a property owner owes a duty to make an adjacent public roadway safe from, or otherwise warn of, third-party drivers.

Leny Chan, an HNMC nurse, was struck and killed by a careless driver while she was crossing the street adjacent to the HNMC hospital where she worked. Chan's estate and surviving relatives sued HNMC, the driver, and the driver's employer for negligence. The case was tried before a jury, which apportioned 20% of the liability to HNMC and the remainder among Chan and the other defendants. The trial court entered a final judgment against HNMC based on that finding. The court of appeals affirmed the judgment, holding that HNMC owed a duty to Chan under the factors described in *Greater Houston Transportation Co. v. Phillips*, 801 S.W.2d 523 (Tex. 1990).

The Supreme Court reversed and rendered judgment for HNMC. The Court explained that courts should not craft case-specific duties using the *Phillips* factors when recognized duty rules apply to the factual situation at hand. Because the facts of this case implicated several previously recognized duty rules—including the rule that a property owner need not make safe public roadways adjacent to its property and the rule that a property owner who exercises control over adjacent property is liable for that adjacent property as a premises occupier—HNMC had, at most, a limited duty as a premises occupier based on its exercise of control over certain parts of the right-of-way adjoining its hospital. But there was no evidence that any condition HNMC controlled in the right-of-way caused Chan's harm and therefore no basis for liability against HNMC.