



Is Building Liable For Car Accident Where Pedestrians Couldn't Escape Inside?

Creative accident lawyering that didn't work; maybe the lawyer was a little too creative.

This case out of Brooklyn, New York, and decided by an appeals court on April 19, 2011.

A Brooklyn mother (plaintiff Marcella Jiminez) and son (plaintiff Justin Abundiz) were minding their own business, standing in front of a Brooklyn building.

Defendant-car driver (Nazar Hussain Shahid) [lost control of his motor vehicle](#), which mounted the sidewalk, and struck them as they were standing on the front steps of the Brooklyn building.

The injured plaintiffs tried to escape the car bearing down on them by running into the building.

Failing to get away from the car that was bearing down in them, they took the hit and were injured.

The injured mother (Abundiz) allegedly tried to enter the building to escape the oncoming vehicle, but he was unable to open the door in time because it was "poorly maintained" and "unreasonably difficult to open." So she not only sues the car for her and her son's personal injury, she also sues the building owner (defendant Drenis Properties, LLC).

HOLDING: The lower court dismissed the accident victims' case against the building owner and the appeals court agreed.

Even giving the injured plaintiffs the benefit of every possible favorable inference, the court found that they failed to set forth a cognizable cause of action to recover damages for negligence against the building owner. The court pointed out: "Here, the plaintiffs failed to sufficiently allege any valid basis for the imposition of a duty of care on behalf of [the building owner] to safeguard against the risk that a car would mount the sidewalk and strike a pedestrian."

Comment: I'm an attorney representing injured people and accident victims, but I still believe that this is a rational and correct decision. What did the building owner do wrong, really?

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