

UNITED STATES DISTRICT COURT  
DISTRICT OF MAINE

CHARLOTTE BLONDER,  
Plaintiff

v.

Civil No. 99-274-P-C

THE CASCO INN RESIDENTIAL CARE,  
INC.,  
CASCO INN ASSOCIATES,  
TIMOTHY H. SYMONDS,  
GARY W. SYMONDS,  
LINDA SYMONDS,  
Defendants

GENE CARTER, District Judge

**MEMORANDUM OF DECISION AND ORDER**

Currently before the Court is a Motion for Summary Judgment, pursuant to Fed. R. Civ. P. 56, by Defendants Casco Inn Associates, Timothy H. Symonds, and Gary W. Symonds. (“the Motion”) (Docket No. 16). For the reasons that follow, the Court will grant the Motion.

Plaintiff was injured during a fire at Casco Inn Residential Care Facility, operated by The Casco Inn Residential Care, Inc., while she was a resident there. Plaintiff filed a six-count Complaint (Docket No. 1) against The Casco Inn Residential Care, Inc. Subsequently, Plaintiff’s Motion to Amend (Docket No. 4) her Complaint was granted by the Court. By her Amended Complaint, Plaintiff added as Defendants Casco Inn Associates, Timothy H. Symonds, Gary W. Symonds, and Lynda Symonds. Additionally, Plaintiff added a count to pierce the corporate veil. The added Defendants were named only with respect to Count V, premises liability, and Count VII, piercing the corporate veil.

By their Motion, and accompanying Statement of Material Facts (Docket No. 17), Defendants Casco Inn Associates, Timothy H. Symonds, and Gary W. Symonds move for

summary judgment as to all counts against them. Plaintiff filed a Response (Docket No. 21) in which she indicated that she has no objection to this Motion. Plaintiff concluded, after the completion of discovery, that the Defendants filing this Motion are entitled to summary judgment. Furthermore, Plaintiff did not file a statement of material facts or otherwise challenge the Statement of Material Facts filed by Defendants Casco Inn Associates, Timothy H. Symonds, and Gary W. Symonds. Defendants The Casco Inn Residential Care, Inc. and Linda Symonds filed a Response (Docket No. 19) to the Motion. By their Response, Defendants The Casco Inn Residential Care, Inc. and Linda Symonds contend that summary judgment for Defendants Casco Inn Associates, Timothy H. Symonds, and Gary W. Symonds is inappropriate, because there exist genuine issues of material fact with respect to the issue of premises liability.

The objection by Defendants The Casco Inn Residential Care, Inc. and Linda Symonds to the Motion, coupled with the absence of objection to the Motion by Plaintiff, raises an interesting procedural question. In the absence of cross-claims, and in the absence of objection from the plaintiff, may one codefendant be the sole, successful, opposition to another codefendant's motion for summary judgment? The Court has been unable to unearth any authority that decides the point. Moreover, Defendants The Casco Inn Residential Care, Inc.. and Linda Symonds have failed to provide the Court with any authority for the proposition that they may oppose the Motion by their Codefendants. In the absence of authority, the Court falls back on the principles underlying Rule 56. Specifically, the Court notes that Rule 56 is intended to avoid trial when appropriate and to bring about summary justice whenever legally proper. Requiring Plaintiff to prosecute her claims against Defendants Casco Inn Associates, Timothy H. Symonds, and Gary W. Symonds when she no longer believes such claims to be viable would be contrary to the principle of Rule 56 that trials (or portions thereof) should be avoided when appropriate. Requiring Defendants Casco Inn Associates, Timothy H. Symonds, and Gary W. Symonds to endure such a trial would be contrary to the principle of Rule 56 that the Court should bring about summary justice whenever legally proper. Accordingly, the Court will disregard the

Response by Defendants The Casco Inn Residential Care, Inc.. and Linda Symonds objecting to the Motion.<sup>1</sup>

Because Defendants Casco Inn Associates, Timothy H. Symonds, and Gary W. Symonds have demonstrated the absence of a genuine issue of material fact with respect to the claims against them, and because Plaintiff does not object, the Motion will be granted.

Accordingly, it is **ORDERED** that the Motion for Summary Judgment by Defendants Casco Inn Associates, Timothy H. Symonds, and Gary W. Symonds, be, and it is hereby, **GRANTED**.

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GENE CARTER  
District Judge

Dated at Portland, Maine this 4<sup>th</sup> day of May, 2000.

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<sup>1</sup> Even if the Court were inclined to consider the Response by Defendants The Casco Inn Residential Care, Inc. and Linda Symonds, it would not change the ultimate disposition of the Motion. Defendants The Casco Inn Residential Care, Inc. and Linda Symonds filed a Statement of Material Facts (Docket No. 20) to accompany their Response to the Motion. Their Statement of Material Facts does not comply, however, with Local Rule 56. The Statement of Material Facts of Defendants The Casco Inn Residential Care, Inc. and Linda Symonds does nothing more than repeat the statements set forth in the Statement of Material Facts submitted by Defendants Casco Inn Associates, Timothy H. Symonds, and Gary W. Symonds. Indeed, the Statement of Material Facts of Defendants The Casco Inn Residential Care, Inc. and Linda Symonds begins with the statement “there is no genuine issue with respect to the following material facts:” While Defendants The Casco Inn Residential Care, Inc. and Linda Symonds reference, in their Response, what they consider to be genuine issues of material fact, those allegedly disputed facts are not set forth in their Statement of Material Facts as required by Local Rule 56.

BLONDER v. CASCO INN RESIDENTIA, et al

CHARLOTTE BLONDER  
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