

UNITED STATES DISTRICT COURT

DISTRICT OF MAINE

YORK INSURANCE COMPANY OF
MAINE f/k/a COMMERCIAL UNION
YORK INSURANCE COMPANY as
subrogee of MADISON MOTEL CORP. d/b/a
MADISON MOTOR INN, MADISON
MOTEL CORP. d/b/a MADISON MOTOR
INN, RICHARD THERIAULT and ANITA
THERIAULT,

Plaintiffs

v.

Civil No. 03-27-P-C

JAMES L. SCHULTZ and NETWORK
ENGINEERING TECHNOLOGIES, INC.,

Defendants

Gene Carter, Senior District Judge

**MEMORANDUM OF DECISION AND ORDER DENYING
PLAINTIFFS MADISON MOTEL CORP. d/b/a MADISON MOTOR INN and
RICHARD AND ANITA THERIAULT'S MOTION FOR PARTIAL SUMMARY
JUDGMENT ON LIABILITY AGAINST DEFENDANT JAMES L. SCHULTZ**

Plaintiffs seek recovery for property and economic damage caused by a fire that damaged the Madison Motor Inn on Friday, May 10, 2002. Plaintiffs claim that Defendant James L. Schultz negligently caused the fire while smoking in bed. Now before the Court is Plaintiffs Madison Motel Corporation d/b/a Madison Motor Inn and Richard and Anita Theriault's Motion for Partial Summary Judgment on liability against Defendant Schultz. *See* Docket Item No. 27. After a thorough review of the factual

record and the argumentation of the parties, the Court concludes that there are material issues of fact, *inter alia*, as to whether Mr. Schultz breached his duty of care, that prevent the Court from granting summary judgment in favor of Plaintiffs on the question of Mr. Schultz's liability.

/s/ Gene Carter
Senior United States District Judge

Dated this 25th day of February, 2004

Plaintiff

**YORK INSURANCE
COMPANY OF MAINE, as
Subrogee of Madison Motel
Corp.**

represented by **WILLIAM C. NUGENT**
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

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fka
**COMMERCIAL UNION
YORK INSURANCE
COMPANY**

V.

Intervenor Plaintiff

MADISON MOTEL CORP

represented by **MICHAEL K. MARTIN**
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ATTORNEY TO BE NOTICED

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dba
MADISON MOTOR INN

ANITA THERIAULT

represented by **PAUL R. DUMAS, JR**
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ATTORNEY TO BE NOTICED

MICHAEL K. MARTIN
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ATTORNEY TO BE NOTICED

RICHARD THERIAULT

represented by **PAUL R. DUMAS, JR**
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ATTORNEY TO BE NOTICED

MICHAEL K. MARTIN
(See above for address)
ATTORNEY TO BE NOTICED

V.

Defendant

JAMES L SCHULTZ

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**NETWORK ENGINEERING
TECHNOLOGIES INC**

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Movant

MADISON MOTEL CORP
TERMINATED: 03/19/2003

represented by **MICHAEL K. MARTIN**
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Cross Claimant

**NETWORK ENGINEERING
TECHNOLOGIES INC**

represented by **HUMPHREY H. N. JOHNSON**
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

V.

Cross Defendant

JAMES L SCHULTZ

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(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Cross Claimant

**NETWORK ENGINEERING
TECHNOLOGIES INC**

represented by **HUMPHREY H. N. JOHNSON**
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ATTORNEY TO BE NOTICED

V.

Cross Defendant

JAMES L SCHULTZ

represented by **KENNETH D. PIERCE**
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