

United States Court of Appeals For the First Circuit

No. 16-2293

HENRY MU,

Plaintiff, Appellant,

v.

OMNI HOTELS MANAGEMENT CORPORATION, a/k/a Omni Hotels,

Defendant, Appellee,

JOHN DOES 1-20,

Defendants.

No. 16-2442

HENRY MU,

Plaintiff, Appellant,

v.

OMNI HOTELS MANAGEMENT CORPORATION, a/k/a Omni Hotels;

JOHN DOES 1-20,

Defendants, Appellees.

Before

Howard, Chief Judge,

Torruella and Barron, Circuit Judges.

ORDER OF COURT

Entered: March 19, 2018

We deny the petition for review. With respect to petitioners' arguments concerning the standard of care, we note that, without suggesting any have merit, they fail for lack of prejudice because the record did contain sufficient evidence -- particularly given that expert testimony was not required -- to support reasonable inferences rendering summary judgment inappropriate with regard to the standard of care. Most critically, record evidence established both that prior to the

fight Mu urged an employee who had just seen a fight amongst the rowdy group of recent evictees and the group acting aggressively towards a third party to "get some help," but was told it was "not [the employee's] problem," and that Mu later urged another Omni employee "to do something" about the rowdy group "coming in and out" of the lobby, including to "kick them out," "call security" and/or "report [them] to the police." This, on its own, gives rise to a dispute of material fact regarding Omni's adherence to the proper standard of care.

By the Court:

/s/ Margaret Carter, Clerk

cc:

Hon. Patricia A. Sullivan

Hanorah Tyer-Witek, Clerk, United States District Court for the District of Rhode Island

Jesse W. Duarte

Geoffrey Williams Millsom

Brenna Anatone Force

Douglas Jay Emanuel