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***Court holds elevator  
owners to 'common carrier'  
standard of care***

by Barbara Raffle  
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Elevator owners must be held to the common-carrier standard of care, similar to that imposed on the operators of buses and trains, the Utah Court of Appeals has held.

"The elevator performs the function of a common carrier by transporting people from one floor to another. The public places its trust in those who furnish elevators that they will be transported safely from one floor to another." Wrote Judge Russell W. Bench for the unanimous court.

"Once passengers enter an elevator, they surrender all control of their situation and place their safety entirely in the hands of the owner. Furthermore, the risk presented when transporting passengers vertically is as great as transporting passengers horizontally in a conveyance such as a bus or train. We therefore conclude the elevator owners as required to exercise the standard care applicable to common carriers."

The case involved an appeal of a Third District Court judge's grant of a motion for directed verdict by The Boyer Company.

In April 1994, the appellant had entered an elevator on the sixth floor of a building owned and operated by The Boyer Company. She was trapped inside the elevator for about 40 minutes while it intermittently and erratically rose and fell. The woman was thrown about the elevator, striking her head, arms and legs, before finally escaping by prying the doors open and jumping to the floor below.

The woman claimed to have suffered severe permanent physical injury and pain. She brought a strict products liability claim against the elevator's manufacturer, Kimball Elevator Company, later amending the suit to assert a negligence claim against The Boyer Company.

The trial court granted summary judgment in favor of Kimball Elevator. The judgment was upheld by the appeals court on grounds the woman had not shown there was any defect in the elevators at the time Kimball sold them to The Boyer Company. The appeals court found the woman had submitted evidence to raise an issue of material fact as to whether The Boyer Company had notice of a dangerous condition.

Kimball Elevator's district manager testified the Boyer elevators had experienced some problems, and that he had spoken with a Boyer Company representative about them prior to the woman's incident. A Kimball repairman also testified that he had responded to problems with the elevators. Service logs also showed numerous reports of malfunctions. Other witnesses testified that they had been trapped in the elevators, and that many were "afraid" of them.

The Boyer Company moved for a directed verdict, claiming there was no evidence it had knowledge of any defective or dangerous conditions. The trial court granted the motion. The woman appealed. The appeals court reversed and remanded, establishing a new standard of care for elevator owners.

Elevator owners are held to the common carrier standard of care in a number of other jurisdictions, including the 11<sup>th</sup> Circuit and 4<sup>th</sup> Circuit courts of appeals, and in Illinois, Montana and Oklahoma, (*Case No. 940485-CA*).