



**ARIZONA SUPREME COURT
ORAL ARGUMENT CASE SUMMARY**



**JEANETTE M. SANDERS v. FRANCIS ALGER
CV-16-0181-PR**

PARTIES AND COUNSEL:

Petitioner: Jeannette M. Sanders

Respondent: Francis Alger

FACTS:

Jeannette Sanders is an independent contractor hired by the Division of Developmental Disabilities, a part of the Department of Economic Security (“DES”), to provide in-home care services to Francis Alger. Alger is a large man and Sanders is a small woman. In June 2011, Sanders was helping Alger move from his wheelchair to a car. Alger became distracted by a couple approaching the vehicle, failed to respond to the cues and prompts that Sanders gave him, and began to fall. Alger landed on Sanders causing her serious injuries.

Alger is an economically-disadvantaged, developmentally-disabled adult with several afflictions, including cerebral palsy. The parties dispute the extent to which Alger’s disabilities may have contributed to his falling and being unable to avoid Sanders. Sanders filed the instant case against Alger alleging that he was liable to her because his negligence caused her injury.

The Attorney General’s Office filed an answer on Alger’s behalf and filed a motion for summary judgment. The motion argued that, as a matter of law, Sanders could not make out a negligence claim because (1) Alger owed no duty of care to Sanders as she was his care provider, or (2) Alger’s claim should be barred by the “firefighter’s rule” which generally prevents injured firefighters from suing a person they rescue, even if that person’s negligence contributed to the firefighter’s injury.

The trial court granted Alger’s motion for summary judgment, finding that the firefighter’s rule barred Sanders’ claim.

The court of appeals reversed and remanded, holding that the firefighter’s rule did not bar Sanders’ claim against Alger. *Sanders v. Alger*, 240 Ariz. 90, 345 P.3d 1199 (App. 2016). The court held that, while some of the “logic” underlying the firefighter’s rule applied to in-home care providers, other public policy concerns do not apply. For instance, while a fire poses a broad public danger, Alger’s negligence would pose only a private risk. Because the court did not find the similarities between caregivers and firefighters sufficient, it refused to apply the firefighter’s rule to bar Sanders’ claim.

The court also concluded that Sanders’ contract with DES did not relieve Alger of a duty

of care toward Sanders. Rather, the court concluded that Alger owed Sanders a duty to use reasonable care to avoid causing her injury. The court of appeals remanded for further proceedings on Sanders' negligence claim against Alger.

This Court granted Alger's petition for review and asked the parties to file briefs addressing the following issues.

ISSUES:

1. Does the firefighter's rule bar Sanders' negligence claim?
2. Did the court of appeals err in ruling that Alger owed Sanders a duty of care?

DEFINITIONS:

Firefighter's rule or Fireman's rule: A doctrine holding that a firefighter, police officer, or other emergency professional may not hold a person, usually a property owner, liable for unintentional injuries suffered by the professional in responding to the situation created or caused by the person.

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