

exercised any care for his own safety.” *Dennis v. Railroad*, 94 N. H. 164, 165.

I would sustain the defendant’s exception to denial of its motions for nonsuit and a directed verdict.

Original,
No. 5275a.

LORA B. BARTON, *Adm’x & a.*

v.

FRED K. PLAISTED, JR. *& a.*

Argued October 15, 1964.

Submitted December 3, 1964.

Decided December 30, 1964.

Leahy & Denault, Shulins & Duncan, John C. Fairbanks, William E. Lovejoy, William E. Nolin and McLane, Carleton, Graf, Greene & Brown (Mr. Stanley M. Brown orally), for the motion.

Wiggin, Nourie, Sundeen, Nassikas & Pingree and Dort S. Bigg (Mr. Bigg orally), opposed to the motion.

PER CURIAM. Motion filed in this court in behalf of the plaintiffs requesting the Supreme Court to appoint a Justice of this court or a commissioner to receive supplementary evidence to be offered by the plaintiffs in support of exceptions preserved at the trial and now pending on appeal. By their motion the plaintiffs raise the question whether their rights were prejudiced by the Trial Court’s denial of their motion to strike the testimony of an expert witness and by the Trial Court’s denial of

[REDACTED]

their motions to set aside the verdicts as procured and influenced by the testimony of such witness. By their exceptions in the Trial Court and by their motion the plaintiffs claim that the testimony of the expert witness "was false and fraudulent and [that] he is a witness unworthy of belief by reasonable men."

The motion is denied without prejudice to the rights of any parties to this proceeding because it does not appear that extraordinary action by this court at this time is required.

Motion denied without prejudice.

[REDACTED]

Grafton,
No. 5280.

PETITION OF DANA L. GRAHAM.

Argued November 4, 1964.

Decided December 30, 1964.

[REDACTED]

[REDACTED]

[REDACTED]

Mack M. Mussman (by brief and orally), for the plaintiff.