IN THE COURT OF APPEALS OF IOWA

No. 1-528 / 91-352

FILED
JAN 29 1992
CLERK SUPREME COURT

MARY ALICE WALKER, As Administrator of the Estate of CLIFTON WALKER, Deceased,

Appellant,

vs.

GARY MLAKAR and **GEORGE PRATT, JR.**,

Appellees.

597

Appeal from the Iowa District Court for Scott County, Margaret S. Briles, Judge.

Plaintiff appeals the district court's directed verdict on her decedent's coemployee gross negligence claim. **AFFIRMED BY OPERATION OF LAW.**

Michael K. Bush, John J. Carlin, and Marcia A. Schnell of Carlin, Hellstrom & Bittner, Davenport, for appellant.

Carole J. Anderson and Thomas N. Kamp of Lane & Waterman, Davenport, for appellees.

Heard by Oxberger, C.J., and Schlegel and Habhab, JJ., but considered en banc.

PER CURIAM

The court being equally divided, the judgment is affirmed by operation of law. Iowa Code § 602.5106(1) (1989).

AFFIRMED.

For affirmance: Donielson, Sackett, and Habhab, JJ.

For reversal: Oxberger, C.J., and Schlegel and Hayden, JJ.