

NOTICE: Summary decisions issued by the Appeals Court pursuant to its rule 1:28, as amended by 73 Mass. App. Ct. 1001 (2009), are primarily directed to the parties and, therefore, may not fully address the facts of the case or the panel's decisional rationale. Moreover, such decisions are not circulated to the entire court and, therefore, represent only the views of the panel that decided the case. A summary decision pursuant to rule 1:28 issued after February 25, 2008, may be cited for its persuasive value but, because of the limitations noted above, not as binding precedent. See Chace v. Curran, 71 Mass. App. Ct. 258, 260 n.4 (2008).

COMMONWEALTH OF MASSACHUSETTS

APPEALS COURT

18-P-508

JANET MACK

vs.

DEVONFIELD INN, LLC.

MEMORANDUM AND ORDER PURSUANT TO RULE 1:28

A Superior Court jury returned a verdict in favor of the defendant, Devonfield Inn, LLC (Inn), on a claim for negligence brought by the plaintiff, Janet Mack, after Mack injured her wrist when she fell at the Inn. On appeal, Mack contends, as she did below, that there was error in the jury instructions. We affirm.

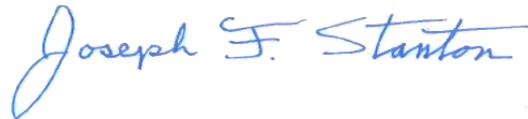
Our review of this matter is hampered by the deficiencies in the record before us. Mack has included a transcript that contains only the jury charge conference, the jury charge, and the verdict. See Mass. R. A. P. 8 (a), as amended, 378 Mass. 932 (1979) (composition of record on appeal shall include transcript of proceedings). With this in mind, "we review [the] objections to [the] jury instructions to determine if there was any error, and, if so, whether the error affected the

substantial rights of the objecting party." Dos Santos v. Coleta, 465 Mass. 148, 153-154 (2013), quoting Hopkins v. Medeiros, 48 Mass. App. Ct. 600, 611 (2000).

Here, the jury instructions were not a model of clarity. However, given Mack's failure to include a complete transcript of the trial, she is unable to meet her burden to demonstrate prejudicial error.

Judgment affirmed.

By the Court (Rubin,
Wolohojian & Blake, JJ.¹),



Clerk

Entered: November 7, 2018.

¹ The panelists are listed in order of seniority.