

Per Curiam.

ALBANESE v. N. V. NEDERL. AMERIK STOOMV.
MAATS. ET AL.

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED
STATES COURT OF APPEALS FOR THE SECOND CIRCUIT.

No. 523. Decided December 13, 1965.*

346 F. 2d 481, certiorari denied in Nos. 557 and 654; and in No. 523 certiorari granted, judgment reversed and District Court judgment reinstated.

Philip F. DiCostanzo and *Robert Klonsky* for petitioner in No. 523. *Sidney A. Schwartz* and *Joseph Arthur Cohen* for petitioner in No. 557.

Edmund F. Lamb for respondent N. V. Nederl. Amerik Stoomv. Maats. in Nos. 523 and 557 and for petitioner in No. 654.

Arthur J. Mandell for the American Trial Lawyers Association Admiralty Section, as *amicus curiae*, in support of the petition in No. 523.

PER CURIAM.

The motion of the American Trial Lawyers Association for leave to file a brief, as *amicus curiae*, is granted. The petition for certiorari in No. 523, *Albanese v. N. V. Nederl. Amerik Stoomv. Maats.*, is also granted.

We believe that the judgment of the Court of Appeals setting aside the judgment for petitioner Albanese on the ground that the trial court incorrectly charged the jury on the issue of negligence is erroneous. *Gutierrez v. Waterman S. S. Corp.*, 373 U. S. 206.

*Together with No. 557, *International Terminal Operating Co., Inc. v. N. V. Nederl. Amerik Stoomv. Maats.*; and No. 654, *N. V. Nederl. Amerik Stoomv. Maats. v. Albanese et al.*, also on petitions for writs of certiorari to the same court.

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In its opinion the Court of Appeals also stated that the District Court incorrectly instructed the jury as to the applicability of the Safety and Health Regulations for Longshoring† on the question of the shipowner's liability. But we do not read that court's opinion as making this an independent ground for ordering a new trial. So we not only reverse the judgment of the Court of Appeals in the case of *Albanese* but reinstate the District Court's judgment in his favor.

The petitions in No. 557, *International Terminal Operating Co. v. N. V. Nederl. Amerik Stoomv. Maats.*; and No. 654, *N. V. Nederl. Amerik Stoomv. Maats. v. Albanese*, are denied.

It is so ordered.

MR. JUSTICE HARLAN would have denied certiorari in No. 523, *Albanese v. N. V. Nederl. Amerik Stoomv. Maats.*, but the writ having been granted, he would have set the issues for plenary consideration. He concurs in the denial of certiorari in No. 557, *International Terminal Operating Co. v. N. V. Nederl. Amerik Stoomv. Maats.*, and No. 654, *N. V. Nederl. Amerik Stoomv. Maats. v. Albanese*.

† 29 CFR § 9.1 *et seq.* (1963), now 29 CFR § 1504.1 (1965), promulgated by the Secretary of Labor under the authority of Public Law 85-742, 72 Stat. 835, 33 U. S. C. § 941 (1964 ed.).