SCHALLER, J., dissenting. Because I conclude that the plaintiff was not entitled to an instruction on an expert's duty of care, I would affirm the judgment of the trial court.

An examination of the record reveals that the operative complaint, the plaintiff's second amended complaint, is framed in terms of a theory of premises liability on the part of the defendant. The plaintiff, Thomas Monterose, alleges that the defendant, Paul Cross, was the owner of and in possession and control of premises in Watertown, and that the plaintiff was a social invitee on the premises for the purpose of picking up a large wooden spool to be used off the premises. The plaintiff further alleges that the defendant had exclusive control over the premises, and that it was his duty to render the premises reasonably safe for the loading and unloading of personal property. The complaint then asserts that while the plaintiff and the defendant were on the premises loading the spool onto the plaintiff's truck, the spool toppled over, falling onto the plaintiff. Among the allegations of negligence committed by the defendant on the basis of premises liability are several concerning the defendant's status as a skilled rigger, and the standard of care and skill to be used by riggers

engaged in moving heavy objects.

The defendant filed a special defense that contained various allegations of comparative negligence, including an allegation that ''the plaintiff had exclusive control of the situation at the time the spool toppled over on his leg. . . .'' The defendant also alleged that the plaintiff ''attempted to move the large wooden spool while under the influence of intoxicating alcoholic beverages,'' he knew or should have known that ''his sense of balance'' and ''his strength'' had been impaired by excessive consumption of alcohol, and ''he knew or should have known that he could not safely handle the weight of the spool after consuming a large amount of beer.''

The only legal relationship of the parties alleged in the second amended complaint that could generate a duty on the part of the defendant to the plaintiff, therefore, was based on an assertion of ownership and control of premises by the defendant. The sole duty of the defendant to the plaintiff, as alleged, was that of premises owner to social invitee. While it is true that the complaint contains several allegations concerning the defendant's experience and skill as a trained rigger, the plaintiff failed to allege any relationship or transaction between the parties that would invoke the defendant's experience or skill as a rigger. The defendant's status as a rigger would have no bearing on the defendant's duty as an owner of premises. ''In general, there is an ascending degree of duty owed by the possessor of land to persons on the land based on their entrant status, i.e., trespasser, licensee or invitee.'' (Internal quotation marks omitted.) *Kurti* v. *Becker*, 54 Conn. App. 335, 338, 733 A.2d 916, cert. denied, 251 Conn. 909, 739 A.2d 1248 (1999). On the basis of the complaint, therefore, the only applicable standard of care would be ordinary negligence, that is, a duty of reasonable care. See *Cruz* v. *Drezek*, 175 Conn. 230, 234, 397 A.2d 1335 (1978); *Gulycz* v. *Stop & Shop Cos.*, 29 Conn. App. 519, 521, 615 A.2d 1087, cert. denied, 224 Conn. 923, 618 A.2d 527 (1992); see also General Statutes § 52-557a (''standard of care owed to a social invitee shall be the same as the standard of care owed to a business invitee''). The allegations as to the defendant's skill as a rigger are gratuitous and irrelevant to the theory of premises liability alleged in the second amended complaint because, in premises liability actions, the standard of care depends on the status of the visitor once the ownership status is determined. The duty of care in this case—of owner to social invitee—would be as alleged by the plaintiff, the duty to keep the premises in a reasonably safe condition.[1]

Considering the theory of premises liability set forth in the second amended complaint, even if the jury found that a duty existed on the part of the defendant to the plaintiff, no higher standard of care because of the alleged special status of the defendant as a rigger would

be applicable. Only the defendant's status as property owner and the plaintiff's status as an invitee would be relevant to the standard of care. Under any approach to this case, the trial court properly rejected the plaintiff's request for an instruction on a special standard of care to apply to the defendant.

In view of the foregoing analysis, we need not reach the difficult questions of whether, had the case been structured differently, the factual circumstances would warrant that the defendant should be held to a higher standard of care because of his past training and experience as a skilled rigger or whether the defendant's volunteer status would have a bearing on that issue.

For the foregoing reasons, I respectfully disagree with the conclusion of the majority as to the trial court's jury instructions. I would affirm the judgment of the trial court.

[1] When the trial court rejected the plaintiff's request for a jury instruction asserting a higher standard of care on the defendant's part, the reason for rejection was not that premises liability governed, but rather that the matter had already been covered and, therefore, there was no need for a specific instruction of that nature.

Viewing the case as a general negligence case, the jury could well have found no duty on the part of the defendant to the plaintiff, especially since none was alleged. See *Waters* v. *Autuori*, 236 Conn. 820, 826–28, 676 A.2d 357 (1996). "We have often observed that [t]he law does not recognize a duty in the air. . . . Duty is a legal conclusion about relationships between individuals, made after the fact, and imperative to a negligence cause of action. The nature of the duty, and the specific persons to whom it is owed, are determined by the circumstances surrounding the conduct of the individual. . . . A further inquiry must be made, for we recognize that duty is not sacrosanct in itself, but is only an expression of the sum total of those considerations of policy which lead the law to say that the plaintiff is entitled to protection. . . . While it may seem that there should be a remedy for every wrong, this is an ideal limited perforce by the realities of this world. Every injury has ramifying consequences, like the ripplings of the waters, without end. The problem for the law is to limit the legal consequences of wrongs to a controllable degree." (Citations omitted; internal quotation marks omitted.) Id.