

COURT OF APPEALS OF THE STATE OF NEW YORK

Haymon v. Pettit

9 N.Y.3d 324, 880 N.E.2d 416, 849 N.Y.S.2d 872 (2007) · Decided November 20, 2007

SUMMARY

The New York Court of Appeals held that a baseball stadium operator owed no duty to warn or protect a nonpatron who was injured after chasing a foul ball into a public street. The court concluded that the operator lacked control over the street and third parties, and that the foul-ball ticket promotion did not create or contribute to a dangerous condition warranting imposition of a duty.

CASE DETAILS

COURT	Court of Appeals of the State of New York
WRITING FOR THE COURT	Jones, J.; Chief Judge Kaye; Judge Ciparick; Judge Graffeo; Judge Read; Judge Smith; Judge Pigott
JURISDICTION	New York
DECIDED	November 20, 2007
DISPOSITION	affirmed
PROCEDURAL POSTURE	The Ball Club moved for summary judgment dismissing the negligence complaint on the ground that it owed no duty to plaintiff's son. Supreme Court denied the motion, the Appellate Division reversed and dismissed the complaint as to the Ball Club, and plaintiff appealed to the Court of Appeals.
STANDARD OF REVIEW	Summary judgment is appropriate when the moving party establishes entitlement to judgment as a matter of law and the nonmoving party fails to raise a material issue of fact; the evidence is viewed in the light most favorable to the nonmoving party.
PRECEDENTIAL VALUE	published precedential opinion of the New York Court of Appeals
PARTIES	Joan Haymon, individually and as mother and natural guardian of L.H., an infant v. Auburn Community Non-Profit Baseball Association, Inc.

TOPICS

- duty of care
- premises liability
- negligence
- personal injury
- torts

PRACTICE AREAS

torts

negligence

premises liability

personal injury

QUESTIONS PRESENTED

1. Whether a baseball stadium operator owes a duty to warn or protect nonpatron spectators outside the stadium who are injured while chasing foul balls into an adjoining public street.
2. Whether the Ball Club's foul-ball-for-tickets promotion created or contributed to a dangerous condition sufficient to impose such a duty.

HOLDINGS

1. The Ball Club owed no duty to warn or protect L.H. under the circumstances because it neither owned nor controlled the adjoining public street, and the risks of crossing the street and conduct by third persons existed independently of the Ball Club's promotion.
2. The promotion did not create or contribute to a dangerous condition under the circumstances, and even assuming that encouragement to retrieve foul balls could constitute such contribution, no duty to warn or protect would be appropriate.

KEY QUOTATIONS

"An owner or occupier of land generally owes no duty to warn or protect others from a dangerous condition on adjacent property unless the owner created or contributed to such a condition" (9 N.Y.3d at 328)

"This argument, however, is one of foreseeability presupposing that a duty exists" (9 N.Y.3d at 328)

"we do not view the Ball Club's promotion as contributing to a dangerous condition, for it only rewarded the retrieval of foul balls." (9 N.Y.3d at 329)

"Thus, we are constrained from imposing a requirement that the stadium exercise control over nonpatron, third persons outside its premises over whom it has no actual authority to do so." (9 N.Y.3d at 330)

FACTUAL BACKGROUND

L.H., then 14 years old, was outside Falcon Park, a baseball stadium owned by the City of Auburn and operated by Auburn Community Non-Profit Baseball Association, Inc. He chased a foul ball across an adjoining public street while wearing headphones and failing to look both ways, and was struck by a vehicle driven by Donald Pettit, who had a blood alcohol level of .11 percent. The Ball Club offered free tickets to nonpatrons who retrieved foul balls and returned them to the ticket window, although the record was unclear whether L.H. was pursuing a ball for that incentive.

PROCEDURAL HISTORY

L.H. was injured after chasing a foul ball into a public street and being struck by a vehicle. His mother sued the Ball Club, the driver, the City of Auburn, and others. Supreme Court found that the Ball Club owed a duty to protect or warn persons outside the stadium and denied summary judgment. The Appellate Division reversed and dismissed the complaint against the Ball Club, and the Court of Appeals affirmed.

DISPOSITION

affirmed

CASES CITED

- Galindo v. Town of Clarkstown, 2 N.Y.3d 633, 636 (2004)
- Hamilton v. Beretta U.S.A. Corp., 96 N.Y.2d 222, 232 (2001)
- Darby v. Compagnie Natl. Air France, 96 N.Y.2d 343, 347, 349-350 (2001)
- Akins v. Glens Falls City School Dist., 53 N.Y.2d 325, 329-331 (1981)
- Davidoff v. Metropolitan Baseball Club, 61 N.Y.2d 996, 997-998 (1984)
- Darby v. Compagnie Natl. Air France, 96 N.Y.2d 343, 349 (2001)
- Griffin v. 19-20 Indus. City Assoc., LLC, 37 A.D.3d 412 (2d Dep't 2007)
- Starke v. Town of Smithtown, 155 A.D.2d 526, 527 (2d Dep't 1989)
- Clark v. Goshen Sunday Morning Softball League, 122 A.D.2d 769, 770 (2d Dep't 1986)
- Pulka v. Edelman, 40 N.Y.2d 781, 785-786 (1976)
- Fundamental Portfolio Advisors, Inc. v. Tocqueville Asset Mgt., L.P., 7 N.Y.3d 96 (2006)
- Haymon v. Pettit, 37 A.D.3d 1194, 1195 (4th Dep't 2007)