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Saul v. Spring Valley Fitness, Inc., PICS Case No. 14-1234 (C.P. Berks July 21, 2014) Sprecher, J. (6 pages).

COURTS OF COMMON PLEAS

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TORTS

Playground Safety • Punitive Damages • Premises Liability • Failure to Supervise

Saul v. Spring Valley Fitness, Inc., PICS Case No. 14-1234 (C.P. Berks July 21, 2014) Sprecher, J. (6 pages).

Plaintiffs could not provide sufficient evidence to warrant judicial consideration of punitive damages in personal injury claim. Interlocutory appeal denied.

Plaintiff mother was a member of defendant's exercise facility. The facility provided a playground for members' children to use while their parents used the workout center. While plaintiff was working out, her child was in the playground, where she fell from some equipment and broke her arm. One week prior, another child had injured herself while on the climbing wall. Plaintiffs contended that defendant provided no verbal or written warning about any inherent dangers in the room.

Plaintiffs brought suit seeking damages for defendant's negligence, alleging that defendant's behavior constituted recklessness and as such, warranted an award of punitive damages. Plaintiff provided the testimony of a certified playground safety inspector, who opined that defendant's playground was a "gross deviation from the reasonable and prudent standards of care and practice" in the management and supervision of the playground. The expert averred that the child's injuries were a direct result of the reckless indifference and negligence of defendant's management and staff. Given that two accidents occurred within two weeks and the expert testimony provided, plaintiffs contended that punitive damages were warranted sub judice.

The court was not convinced that the evidence supported a claim for punitive damages, but would rule on such after all evidence had been produced at trial. In order to successfully argue for punitive damages, plaintiff had to establish that defendant had acted in an outrageous fashion due either to evil motive or a reckless, willful or wanton indifference to others. Reckless behavior is defined

where "the conduct creates an unreasonable risk of physical harm to another and such risk is substantially greater" than the standard used to prove negligence. A showing of gross negligence will not elevate a claim for damages.

Here, plaintiff argued that defendant's failure to supervise, shown by the two accidents occurring within a week of one another, constituted reckless behavior. The court disagreed, stating that the evidence produced was insufficient to establish an evil motive. All that plaintiffs had established at this point was that defendant was inept and likely committed gross negligence.

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