

2018 WL 3321524

Supreme Court,

Appellate Division, Fourth Department, New York.

Paul WROBEL, Plaintiff–Appellant,

v.

John A. DOE, et al., Defendants,

Buffalo Bills, Inc., [APEX Security Group, Inc.](#), Contemporary Services Corporation,
and County of Erie, Defendants–Respondents.

718CA 17–01701

Entered: July 6, 2018

Attorneys and Law Firms

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PLAINTIFF–APPELLANT.

GOLDBERG SEGALLA LLP, BUFFALO ([DANIEL HUNTER](#) OF COUNSEL), FOR DEFENDANTS–
RESPONDENTS BUFFALO BILLS, INC. AND COUNTY OF ERIE.

BARCLAY DAMON LLP, BUFFALO ([ARIANNA KWIATKOWSKI](#) OF COUNSEL), FOR
DEFENDANT–RESPONDENT APEX SECURITY GROUP, INC.

WALSH, ROBERTS & GRACE, BUFFALO ([KEITH N. BOND](#) OF COUNSEL), FOR DEFENDANT–
RESPONDENT CONTEMPORARY SERVICES CORPORATION.

PRESENT: [CARNI](#), J.P., [LINDLEY](#), [NEMOYER](#), [CURRAN](#), AND [WINSLOW](#), JJ.

MEMORANDUM AND ORDER

Appeal from an order of the Supreme Court, Erie County ([Donna M. Siwek](#), J.), entered June 30, 2017. The order granted the motions of defendants APEX Security Group, Inc., Contemporary Services Corporation, and Buffalo Bills, Inc. and the County of Erie, seeking summary judgment dismissing the amended complaint against them.

*1 It is hereby ORDERED that the order so appealed from is unanimously affirmed without costs.

Memorandum: Plaintiff, a fan of the Miami Dolphins, was attending a game between the Dolphins and defendant Buffalo Bills, Inc. (Bills) at Ralph Wilson Stadium when he was attacked from behind by a group of Bills fans. The stadium is owned by defendant County of Erie (County). Plaintiff suffered a severe [injury to his knee](#) as a result of the unprovoked attack, and he commenced this negligence action to recover for his injuries. Supreme Court subsequently granted the respective motions of the Bills and the County, defendant Apex Security Group, Inc. (Apex), and defendant

Contemporary Services Corporation (CSC), for summary judgment dismissing the amended complaint against them. We now affirm.

Preliminarily, we note that plaintiff abandoned any challenge to the motions of Apex and CSC by failing to raise any issues in his brief with respect thereto (see *Ciesinski v. Town of Aurora*, 202 A.D.2d 984, 984, 609 N.Y.S.2d 745 [4th Dept. 1994]). Contrary to plaintiff's contention, the court properly determined that the conduct of the Bills and the County was not a proximate cause of his injuries. "[A]s an independent act far removed from [the allegedly negligent] conduct [of the Bills and the County], the [assailants' unprovoked] criminal assault broke the causal nexus [between such allegedly negligent conduct and plaintiff's injury]. The attack was extraordinary and not foreseeable or preventable in the normal course of events" (*Maheshwari v. City of New York*, 2 N.Y.3d 288, 295, 778 N.Y.S.2d 442, 810 N.E.2d 894 [2004]; see *Colarossi v. University of Rochester*, 2 N.Y.3d 773, 774, 780 N.Y.S.2d 301, 812 N.E.2d 1250 [2004]; *Curcio v. East Coast Hoops, Inc.*, 24 A.D.3d 997, 998, 805 N.Y.S.2d 489 [3d Dept. 2005], *lv denied* 6 N.Y.3d 710, 813 N.Y.S.2d 46, 846 N.E.2d 477 [2006]

). Indeed, "[i]t is difficult to understand what measures could have been undertaken to prevent plaintiff's injury except presumably to have had a security officer posted at the precise location where the incident took place or wherever [rival **football** fans] were gathered, surely an unreasonable burden" (*Florman v. City of New York*, 293 A.D.2d 120, 127, 741 N.Y.S.2d 233 [1st Dept. 2002]). We thus conclude that the court properly granted the motion of the Bills and the County and dismissed the amended complaint against them