

**WCVAWCK-Doe v Boys & Girls Club of Greenwich,  
Inc.**

2021 NY Slip Op 33886(U)

August 16, 2021

Supreme Court, Westchester County

Docket Number: Index No. 63627/2020

Judge: Steven M. Jaeger

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This opinion is uncorrected and not selected for official publication.

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NASSAU - PART CVA-R

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WCVAWCK-DOE,

Plaintiff,

-against-

BOYS & GIRLS CLUB OF GREENWICH, INC.,

Defendant.

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Index No. 63627/2020  
WESTCHESTER COUNTY  
Mot. Seq. No.: 003

Present:  
Hon. Steven M. Jaeger

On the foregoing electronically submitted papers, items 31-36 and 39-40 on the New York State Electronic Filing System, Defendant BOYS & GIRLS CLUB OF GREENWICH, INC’S motion, pursuant to CPLR §§ 3211(a)(2), 3211(a)(5) and 3211(a)(8), to dismiss Plaintiff JOHN DOE’S complaint is determined as set forth hereinafter.

Plaintiff WCVAWCK-DOE (hereinafter DOE), a resident of the State of Connecticut, was born in 1962. In or about 1968, at the age of 6 years old, he joined Defendant BOYS & GIRLS CLUB OF GREENWICH, INC. (hereinafter the “Club”), a Connecticut corporation with its principal place of business in Greenwich, Connecticut. While a member of the Club, he encountered another boy by the name of Andrew A. Atkinson, (“Atkinson”), who, Plaintiff maintains, serially sexually abused him on nine or ten occasions over the course of Plaintiff’s years with the Club.

Plaintiff alleges, in his complaint, that most of the sexual abuse happened in the State of Connecticut. One incident, however, did happen in the State of New York.

Plaintiff avers that in 1975 or 1976, Atkinson sexually abused him while at Rye Playland in Westchester County, New York. Plaintiff states that he was on the line to take a boat ride when Atkinson forced Plaintiff to ride with him. Plaintiff alleges that Atkinson sexually abused him when the ride went through dark tunnels.

Plaintiff alleges negligence against the Club for (1) its failure to properly supervise Plaintiff and Atkinson to ensure they were not harming each other, (2) its failure to have policies, procedures or guidelines in place regarding how the Club's employees should protect its members from harm and supervise its members, and (3) its failure to adequately train its employees about how to prevent or discover abuse. Plaintiff further alleges that the Club should have known Atkinson was abusing Plaintiff.

The Club moves to dismiss Plaintiff's complaint for, among other things, a lack of personal jurisdiction over it. The Club argues that this Court lacks general personal jurisdiction over it because it is a foreign corporation that does not do business in New York and that, as such, a finding of it being present in this jurisdiction is unwarranted.

The Club also argues that this Court cannot exercise long-arm jurisdiction over the Club under CPLR §302(a)(2) because its alleged torts were not committed within the State of New York. The Club asserts that Plaintiff's causes of action alleging that the Club failed to have policies in place, failed to provide adequate training to its staff, failure to supervise Plaintiff and Atkinson, and failed to discover the alleged abuse were all localized where the Club operated, in Connecticut.

Plaintiff, in opposition to the Club's motion to dismiss, argues that CPLR §302(a)(2) allows this Court to exercise jurisdiction over the Club. Plaintiff argues that

the Club chose to bring a minor into the State of New York, failed to properly supervise him while he was in the State, and failed to protect him from harm. Plaintiff asserts that he is entitled to seek compensation for that act of abuse that occurred in the State of New York and that the Court will determine the extent to which the Club's conduct in Connecticut is admissible before a New York State jury.

Plaintiff's argument is unavailing. The Court concludes that it does not have personal jurisdiction over the Club and that therefore Plaintiff's complaint must be dismissed.

First, as the Club properly asserts, this Court lacks general personal jurisdiction over the Club. The Club is a Connecticut corporation with its principal place of business in Connecticut. In order for the Club to be subject to general personal jurisdiction within New York, it must be demonstrated, in accordance with United States Supreme Court precedent, that the Club's "affiliations with the State are so continuous and systematic as to render it essentially at home" in New York (Daimler AG v Bauman, 571 US 117, 137 [2011]). Plaintiff, by exclusively focusing on long-arm jurisdiction under CPLR §302(a)(2), provides the Court no basis for concluding that it has general personal jurisdiction over the Club. Indeed, recent case law analyzing the question of general personal jurisdiction over a foreign corporation stated that under the current state of the law, there was "significant doubt" over whether "a corporation could ever be subject to general jurisdiction in a state that is neither its state of incorporation nor its principal place of business" (Amelius v Grand Imperial LLC, 57 Misc. 3d 835, 849 [Supreme Court, New York County 2017]).

Turning to whether the Court could properly exercise long arm jurisdiction over the Club pursuant to CPLR 302(a)(2) for a tort committed within the state, this Court is not persuaded that it can subject the Club to long-arm jurisdiction pursuant to this statute. Plaintiff's opposition to Defendant's motion seems to concede that the Court can only exercise jurisdiction for the Club's alleged failure to properly supervise Plaintiff and Atkinson in New York, as the majority of the tortious conduct took place in Connecticut. The court concludes that this one incident, standing alone, cannot form the basis of this Court exercising personal jurisdiction over the Club. Plaintiff's complaint alleges a negligent course of conduct by the Club which began in Connecticut, predominantly occurred in Connecticut, and, by happenstance, included a single trip to Rye Playland in New York. This Court agrees with the Club's characterization of Plaintiff's complaint in that it alleges that the Club failed to take adequate steps prior to the trip to New York to train its staff and have proper procedures and guidelines in place to permit the proper supervision of Plaintiff and Atkinson while within the state of New York. This tortious course of conduct which occurred outside New York State cannot reasonably give rise to jurisdiction within New York State (see, e.g., Bensusan Rest. Corp. v King, 126 F3d 25 [2d Cir. 1997]; cf, Davidoff v Davidoff, 12 Misc.3d 1162(A)(Sup. Ct. New York County 2006)).

Accordingly, it is therefore

**ORDERED** that Defendant's motion to dismiss Plaintiff's complaint pursuant to CPLR 3211(a)(8) is hereby **GRANTED**, and it is further

**ORDERED** that all applications not specifically addressed herein are hereby  
**DENIED.**

The foregoing constitutes the decision and order of the Court.

DATED: August 16, 2021  
Mineola, New York

*Steven M. Jaeger*

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Hon. Steven M. Jaeger,  
A.J.S.C.