K.P. v Rockefeller Univ.
2025 NY Slip Op 31706(U)
April 22, 2025
Supreme Court, New York County
Docket Number: Index No. 950180/2021
Judge: Hasa A. Kingo
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SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: **HON. HASA A. KINGO** — ***Justice*** | **PART** **5**

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K. P.,

Plaintiff,

- v -

ROCKEFELLER UNIVERSITY A/K/A ROCKEFELLER UNIVERSITY HOSPITAL F/K/A HOSPITAL OF THE ROCKEFELLER INSTITUTE, MADISON SQUARE BOYS & GIRLS CLUB, INC. F/K/A MADISON SQUARE BOYS CLUB

Defendant.

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INDEX NO. 950180/2021

MOTION DATE 03/17/2022

MOTION SEQ. NO. 002

DECISION + ORDER ON MOTION

The following e-filed documents, listed by NYSCEF document number (Motion 002) 30, 31, 32, 33, 34, 39, 40, 41, 45, 50

were read on this motion to DISMISS.

Defendant Madison Square Boys & Girls Club, Inc. ("Madison") moves this court pursuant to CPLR § 3211(a)(7) for an order dismissing Plaintiff K.P.'s ("Plaintiff") complaint for failure to state a cause of action.

BACKGROUND AND PROCEDURAL HISTORY

Plaintiff, proceeding anonymously, initiated this action under the Child Victims Act (CPLR § 214-g), alleging that from approximately 1955 to 1957, when he was between seven and nine years old, he was sexually abused by Dr. Reginald Archibald ("Archibald"), a physician affiliated with Rockefeller University and a volunteer and board member at Madison. Plaintiff claims the abuse occurred during medically unnecessary "physical examinations" conducted by Archibald at Madison's facilities and later at Rockefeller.

Founded in 1884 to serve New York City's most vulnerable youth, Madison opened its flagship clubhouse in Manhattan in 1939. With its gymnasium, swimming pool, and dedicated health clinic, Madison sought to provide a safe harbor where boys, and later girls, might find mentorship, recreation, and support. From the mid-1950s onward, the club routinely mandated that all young members undergo an annual "physical examination" prior to participation in swimming, athletics, and residential camping programs such as Clear Pool Camp in Carmel, New York.

It was in this context that Archibald, a distinguished pediatric endocrinologist and long-time Rockefeller University physician, began volunteering at Madison's clinic on Saturdays. According to the complaint, beginning in 1955 when Plaintiff was approximately seven years old, Archibald required him to disrobe, posed him for nude photographs, and subjected him to genital

measurements and inappropriate touching—all under the guise of medical necessity. These encounters allegedly took place in private examination rooms, out of sight of parents or colleagues, and repeated on at least three occasions at Madison's 29th Street Clubhouse.

Years later, at Plaintiff's family's request, Archibald transferred his "evaluation" to Rockefeller University Hospital and allegedly continued similar abuse during visits between 1961 and 1964. Plaintiff alleges lifelong psychological and physical harm stemming from these incidents.

In May 2021, availing himself of the window provided by the Child Victims Act, Plaintiff filed suit against Madison and Rockefeller University, asserting negligence-based claims. Madison filed the instant motion to dismiss in December 2021, arguing that the complaint fails to establish a cognizable duty, foreseeability, or any special relationship. Plaintiff timely opposed, pointing to direct allegations of institutional knowledge—rumors among staff and members that Archibald was nicknamed "Dr. Itchy Balls," a report to the swim director, and a culture of indifference toward his unsupervised conduct.

In early 2022, Plaintiff notified the court of the analogous decision in *C.M. v. The Estate of Reginald Archibald*, 2022 WL 1030123, 20-CV-751 (S.D.N.Y, Apr. 6, 2022), where the Southern District denied Madison's motion to dismiss negligent supervision and retention claims under materially identical facts.

ARGUMENTS

Madison argues Plaintiff fails to sufficiently plead that it owed him a legal duty or that it had actual or constructive knowledge of the alleged abuse. It asserts that mere allegations of Archibald's presence at Madison or his status as a board member do not establish Madison's liability, particularly when no direct employment relationship existed.

It contends that Plaintiff's allegations are conclusory and rely on generalized knowledge or retrospective accounts of misconduct unsupported by specific facts, thereby failing under *Doe v. Alsaud*, 12 F. Supp. 3d 674, 680 (S.D.N.Y. 2014) and *Doe v. Intercontinental Hotels Group, PLC*, 193 AD3d 410 (1st Dept 2021).

In opposition, Plaintiff asserts that Madison had a duty of care arising from its custodial role over minor children and the power it conferred upon Archibald by mandating medical exams. He highlights that Archibald's abuse occurred in the context of his authority at Madison, including access to private spaces where physical exams took place.

Plaintiff cites specific acts and knowledge that support foreseeability and institutional negligence:

- Reports to the swim director in the 1950s;
- Staff jokes and widespread rumors referencing Archibald's sexual misconduct;
- Archibald's requirement that boys pose nude for photos;
- The institutional requirement of physicals for program admission.

Plaintiff draws support from the *C.M.*, *supra*, federal decision, which upheld claims for negligent supervision, retention, and gross negligence against Madison under nearly identical allegations. He distinguishes *Falzon v. The Rockefeller University Hosp*., 2021 WL 5052884 (Sup. Ct. N.Y. Cnty. Oct. 28, 2021) by pointing out that this complaint includes more detailed factual assertions regarding Madison's knowledge and control.

DISCUSSION

I. Standard on a CPLR § 3211(a)(7) Motion

On a motion to dismiss under CPLR § 3211(a)(7), the pleading must be construed liberally, the facts as alleged must be accepted as true, and the plaintiff must be accorded the benefit of every favorable inference (*Leon v. Martinez*, 84 NY2d 83, 87 [1994]; CPLR § 3026). This standard is particularly lenient in the context of the Child Victims Act, which seeks to provide survivors a full and fair opportunity to pursue redress (*S.H. v. Diocese of Brooklyn*, 205 AD3d 180 [2d Dept 2022]). The court's task is not to weigh the evidence, but rather to assess the legal sufficiency of the claims as pleaded.

II. Plaintiff's Negligence Claims Against Madison

The primary inquiry on these claims is whether the complaint adequately pleads that Madison owed a duty to Plaintiff, breached that duty, and that such breach proximately caused the injuries alleged (*Pulka v Edelman*, 40 NY2d 781, 782 [1976]).

The complaint alleges that Madison created a setting in which Archibald, as a volunteer and board member, conducted invasive physicals on minor children, including Plaintiff, as a condition of access to its services. It asserts that these exams were known to involve nudity, genital contact, and photography, that staff and children reported concerns, and that the abuse spanned multiple incidents over several years.

Where, as here, the allegations involve institutions charged with the care and oversight of minors, New York courts have consistently recognized a duty to take reasonable steps to protect children in their custody from foreseeable harm, including sexual abuse (*Doe v Intercontinental Hotel Group, PLC*, 193 AD3d 410, 410–411 [1st Dept 2021]).

The federal court in *C.M.*, *supra*, found allegations like those asserted here sufficient to support claims of negligent supervision and retention, particularly where institutions placed minors under the control of adults later found to have a history of sexual misconduct. Therefore, it is entirely reasonable that a New York trial court should also entertain claims under CPLR § 214-g founded on institutional knowledge, entrenched cultural practices, and supervisory lapses.

Here, as to Rockefeller University, the complaint pleads that Archibald, a prominent endocrinologist affiliated with the institution, used his position and clinical access to perpetrate the alleged abuse. Plaintiff alleges that Rockefeller knew or should have known of prior complaints against Archibald, failed to implement appropriate oversight mechanisms, and permitted him to continue treating minor patients in unsupervised settings. These allegations, taken as true,

sufficiently plead a viable theory of negligent supervision and retention (*see Sheila C. v Povich*, 11 AD3d 120, 129 [1st Dept 2004]).

With respect to Madison, the allegations are less direct. Plaintiff alleges that Madison facilitated access to Archibald through programming or referrals or failed to intervene despite warning signs. While a closer question, construing the complaint liberally, the allegations support a plausible inference that Madison may have had a relationship with Plaintiff that gave rise to a duty of care, and that it failed to take reasonable steps to safeguard him. These claims are therefore sufficient to survive dismissal at the pleading stage (*see Doe v Bloomberg*, L.P., 178 AD3d 44, 47 [1st Dept 2019]). Likewise, Plaintiff has pleaded that Madison not only enabled Archibald's access but also received at least one direct complaint, tolerated a known pattern of behavior, and permitted unsupervised medical exams in private settings. These allegations sufficiently state a viable cause of action sounding in negligence. Questions of actual knowledge, foreseeability, and reasonable institutional response are factual issues that must be explored through discovery. Indeed, because questions of foreseeability, like negligence itself, often admit multiple reasonable inferences, they are generally reserved for resolution by the factfinder (*Becker v. Poling Trans. Corp*., 356 F.3d 381, 392 [2d Cir. 2004]). Likewise, whether a reasonably prudent person would have been on notice of Archibald's abuse presents a question of fact (*see Murray v. Research Found. of State Univ. of New York*, 723 NYS.2d 805, 808 [4th Dept 2001]). Accepting the allegations as true and drawing every reasonable inference in Plaintiff's favor (*Martinez*, 84 NY2d at 87, *supra*), the complaint states a cognizable negligence claim against Madison.

Accordingly, it is hereby

ORDERED that Defendant Madison Square Boys & Girls Club's motion to dismiss pursuant to CPLR § 3211(a)(7) is denied in its entirety.

This constitutes the decision and order of the court.

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4/22/2025		HASA A. KINGO, J.S.C.
DATE		

CHECK ONE:	[ ] CASE DISPOSED		[X] NON-FINAL DISPOSITION	
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APPLICATION:	[ ] SETTLE ORDER		[ ] SUBMIT ORDER	
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