

R.F. v Madison Sq. Boys & Girls Club, Inc.

2025 NY Slip Op 32151(U)

June 9, 2025

Supreme Court, New York County

Docket Number: Index No. 950061/2020

Judge: Sabrina Kraus

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**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

PRESENT: HON. SABRINA KRAUS PART 57M

Justice

-----X

R. F.,

Plaintiff,

- v -

MADISON SQUARE BOYS & GIRLS CLUB, INC.

Defendant.

-----X

INDEX NO. 950061/2020

MOTION DATE 10/26/2020

MOTION SEQ. NO. 003

**DECISION + ORDER ON
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 003) 36, 37, 44, 45, 48, 49, 50, 51, 53, 55, 57, 59, 61, 63

were read on this motion to/for DISMISS.

BACKGROUND

Plaintiff commenced this CVA action and makes the following allegations in his amended complaint.

Dr. Archibald (“Archibald”) was a former professor and senior physician at Rockefeller University (“RU”) from approximately 1940 to 1982. Archibald studied childhood growth and sexual maturity and ran an endocrine clinic within RU in which he treated pediatric patients who had growth issues. Archibald received patient referrals from other RU-affiliated physicians and youth-serving organizations such as Defendant. Archibald was affiliated with Defendant as a board member and a volunteer providing "physical examinations."

In approximately 1967, when Plaintiff was approximately eleven (11) years old, he and his parents became aware of Archibald while Plaintiff was attending activities with Defendant. Archibald performed a "physical examination" on Plaintiff so that Plaintiff could access Defendant's facilities and camps. During these evaluations, Archibald sexually assaulted and

abused Plaintiff. Archibald's sexual assaults of Plaintiff included, inappropriately fondling Plaintiff's penis, masturbating Plaintiff, and taking photographs of Plaintiff, all without sufficient medical and research justification. The acts of sexual assault and abuse of Plaintiff by Archibald took place on the premises of Defendant and/or premises affiliated, owned, operated, maintained, and/or controlled by Defendant with the express knowledge, approval and consent of RU.

The amended complaint asserts cause of action for negligence against Defendant.

PENDING MOTION

On January 29, 2021, Defendant moved for dismissal pursuant to CPLR 3211(a)(7). The motion was fully briefed in 2021. However, Defendant filed bankruptcy in 2022 and the action was stayed through this Spring when the stay was lifted.

For the reasons set forth below, the motion is denied.

DISCUSSION

New York's pleading standard is fundamentally notice pleading – a very liberal standard. “The allegations of a complaint generally need not be set forth in detail; it is sufficient if the parties are (1) put on notice of the underlying transactions or occurrences, and (2) the material elements of the cause of action are stated.” *Mid-Hudson Valley Fed. Credit Union v. Quartararo & Lois, PLLC*, 64 N.Y.S.3d 389, 393 (3d Dep’t 2017), *aff’d*, 31 N.Y.3d 1090 (2018). Furthermore, “[a] complaint need not, and should not, anticipate and refute defenses.” *Sabater ex rel. Santana v. Lead Indus. Ass’n, Inc.*, 704 N.Y.S.2d 800, 804 (Sup. Ct. Bronx Cnty. 2000).

In determining dismissal under CPLR Rule 3211 (a) (7), the “complaint is to be afforded a liberal construction” (*Goldfarb v Schwartz*, 26 AD3d 462, 463 [2d Dept 2006]). The “allegations are presumed to be true and accorded every favorable inference” (*Godfrey v Spano*, 13 NY3d 358, 373 [2009]). “[T]he sole criterion is whether the pleading states a cause of action, and if from its

four corners factual allegations are discerned which taken together manifest any cause of action cognizable at law a motion for dismissal will fail” (*Guggenheimer v Ginzburg*, 43 NY2d 268, 275 [1977]).

Additionally, “[w]hether a plaintiff can ultimately establish its allegations is not part of the calculus in determining a motion to dismiss” (*EBC I, Inc. v Goldman, Sachs & Co.*, 5 NY3d 11, 19 [2005]).

The elements of a cause of action alleging common-law negligence are a duty owed by the defendant to the plaintiff, a breach of that duty, and a showing that the breach of that duty constituted a proximate cause of the injury (*see Turcotte v. Fell*, 68 N.Y.2d 432, 437, 510 N.Y.S.2d 49, 502 N.E.2d 964; *Jiminez v. Shahid*, 83 A.D.3d 900, 901, 922 N.Y.S.2d 123; *Ruiz v. Griffin*, 71 A.D.3d 1112, 1114, 898 N.Y.S.2d 590)

Roberson v. Wyckoff Heights Med. Ctr., 123 A.D.3d 791, 792 (2014).

The complaint sufficiently asserts each of the above elements. Defendant does not dispute it owed plaintiff a duty. The motion seems to focus primarily on its claim that notice is insufficiently pled.

As alleged in Plaintiff’s Amended Complaint, Defendant, through its employees and agents, knew or should have known that Archibald was sexually inappropriate and assaulting minors using the Madison Square facilities. Defendant was aware that Archibald was referred to by employees and children as “Dr. Itchy Balls.” Archibald’s sexual abuse of children during physical examinations was a running joke between employees, staff, counselors and agents of Defendant. Defendant was aware that Archibald was recruiting patients and performing for medically unjustified procedures and examinations on its premises, and that it was reasonably foreseeable that Archibald would commit acts of child sexual abuse.

The Court finds that elements for a negligence cause of action are sufficiently pled, particularly in light of the fact that no discovery has taken place, and the facts are primarily within Defendant’s knowledge and control.

CONCLUSION

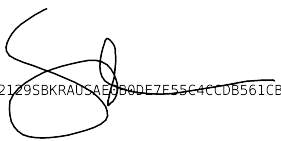
WHEREFORE it is hereby:

ORDERED that defendant’s motion is denied; and it is further

ORDERED that defendant serve and file its answer within twenty days of receipt of this decision with notice of entry; and it is further

ORDERED that counsel appear for a virtual preliminary conference on July 29, 2025, at 3:30 PM.

This constitutes the decision and order of the Court.


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6/9/2025
DATE

SABRINA KRAUS, J.S.C.

CHECK ONE:

CASE DISPOSED
GRANTED DENIED
SETTLE ORDER
INCLUDES TRANSFER/REASSIGN

NON-FINAL DISPOSITION
GRANTED IN PART
SUBMIT ORDER
FIDUCIARY APPOINTMENT

OTHER
REFERENCE

APPLICATION:

CHECK IF APPROPRIATE: