

S.R. v Madison Sq. Boys & Girls Club

2025 NY Slip Op 32648(U)

July 1, 2025

Supreme Court, New York County

Docket Number: Index No. 951180/2021

Judge: Adam Silvera

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This opinion is uncorrected and not selected for official publication.

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

PRESENT: HON. ADAM SILVERA PART 1

Justice

-----X

S. R.

Plaintiff,

- v -

THE MADISON SQUARE BOYS AND GIRLS CLUB,

Defendant.

-----X

INDEX NO. 951180/2021

MOTION DATE 03/04/2024

MOTION SEQ. NO. 001

**DECISION + ORDER ON
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 001) 23, 24, 25, 26, 27, 28, 29, 30, 31, 32

were read on this motion to/for DISMISS.

Upon the foregoing documents, it is ordered that defendant The Madison Square Boys and Girls Club’s motion seeking to dismiss the complaint for failure to state a cause of action is denied for the reasons set forth below.

Plaintiff commenced this action seeking to recover damages for personal injuries sustained as a result of alleged sexual abuse by Reginald Archibald (hereinafter referred to as “Archibald”), a pediatric endocrinologist, who provided medical screenings and other medical services for young boys who attended a program called the “Clubhouse”, run by defendant. Such medical services were conducted by Archibald at an office provided by defendant. Here, plaintiff asserts a cause of action for negligence. Defendant The Madison Square Boys and Girls Club moves to dismiss, arguing that plaintiff has failed to plead any facts regarding defendant’s knowledge of Archibald’s propensity for sexual abuse.

On a motion to dismiss pursuant to CPLR 3211(a)(7), the movant has the burden to demonstrate that, based upon the four corners of the complaint liberally construed in favor of the plaintiff, the pleading states no legally cognizable cause of action. *See Leon v Martinez*, 84 NY2d 83, 87-88 (1994). A motion to dismiss the complaint for failure to state a cause of action “will generally depend upon whether or not there was substantial compliance with CPLR 3013.” *Catli v Lindenman*, 40 AD2d 714, 715 (2d Dept 1972). If the allegations are not “sufficiently particular to give the court and parties notice of the transactions intended to be proved and the material element of each cause of action”, the cause of action will be dismissed. *See Catli*, 40 AD2d at 715. CPLR 3013 provides that “[s]tatements in a pleading shall be sufficiently particular to give the court and parties notice of the transactions, occurrences, or series of transactions or occurrences, intended to be proved and the material elements of each cause of action or defense.” The standard on a motion to dismiss a pleading for failure to state a cause of action is not whether the party has artfully drafted the pleading, but whether deeming the pleading to allege whatever can be reasonably implied from its statements, and accepting all factual allegations as true, a cause of action can be sustained. *See Stendig, Inc. v Thorn Rock Realty Co.*, 163 AD2d 46, 48 (1st Dept 1990); *Leviton Manufacturing Co., Inc. v Blumberg*, 242 AD2d 205, 208 (1st Dept 1997).

The Appellate Division has held that “[a]n employer can be held liable under theories of negligent hiring, retention, and supervision where the complaint alleges that the employer knew or should have known of the employee's propensity for the conduct which caused the injury. Causes of action alleging negligence based upon negligent hiring, retention, or supervision are not statutorily required to be pleaded with specificity.” *Novak v Sisters of the Heart of Mary*, 210

AD3d 1104, 1105 (2d Dept 2022) (internal quotations and citations omitted). At this early stage in litigation, prior to discovery, plaintiff need only allege that defendant knew or should have known of Archibald's propensity for sexual abuse, that defendant failed to take action, and that defendant's failure caused plaintiff's injury. Here, plaintiff's complaint alleges that a child attending defendant The Madison Square Boys and Girls Club's Clubhouse complained to staff members "that Archibald was sexually abusing him in 1978." Verified Complaint and Jury Trial Demand, dated August 11, 2021, ¶ 73. The complaint goes on to allege that "in or about the early 1950s, one of the boys reported to the [Madison Square Boys and Girls Club's] Swim Director...that Archibald was touching boys' genitals." *Id.* at ¶ 75. The complaint further alleges that none of defendant's staff members "took any action to protect the children at...[the Clubhouse] or to curtail Archibald's sexually abusive behavior in any way." *Id.* at ¶ 74. The complaint states that plaintiff was introduced to Archibald in 1979 when he was five (5) years old, when plaintiff first attended defendant's Clubhouse and was required by defendant to undergo a physical examination which led to his sexual abuse and injury. *See id.* generally at ¶¶ 92-130. Despite defendant's contentions, taking the facts set forth in the four corners of the complaint as true, plaintiff has sufficiently pled a cause of action for negligence.

As such, it is

ORDERED that defendant The Madison Square Boys and Girls Club's motion to dismiss is denied in its entirety; and it is further

ORDERED that, within 30 days of entry, plaintiff shall serve a copy of this order upon all parties, together with notice of entry; and it is further

ORDERED that defendant The Madison Square Boys and Girls Club shall serve and file

its answer to the complaint within 20 days from the date of service of this order with notice of entry.

This constitutes the Decision/Order of the Court.

7/1/2025
DATE


ADAM SILVERA, J.S.C.

CHECK ONE:	<input type="checkbox"/>	CASE DISPOSED	<input checked="" type="checkbox"/>	NON-FINAL DISPOSITION	
	<input type="checkbox"/>	GRANTED	<input checked="" type="checkbox"/> DENIED	<input type="checkbox"/>	<input type="checkbox"/> OTHER
APPLICATION:	<input type="checkbox"/>	SETTLE ORDER		<input type="checkbox"/>	
CHECK IF APPROPRIATE:	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN		<input type="checkbox"/>	<input type="checkbox"/> REFERENCE
				<input type="checkbox"/>	