S.C. v NYC Elite Gymnastics, Inc.
2026 NY Slip Op 30532(U)
February 11, 2026
Supreme Court, New York County
Docket Number: Index No. 152259/2023
Judge: Arlene P. Bluth
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SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: **HON. ARLENE P. BLUTH** **PART** **14**

Justice

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S. C., an infant, by his mother and natural guardian, KAREN TAI and KAREN TAI, individually

Plaintiffs,

- v -

NYC ELITE GYMNASTICS, INC.,

Defendant.

----------X

INDEX NO. 152259/2023

MOTION DATE N/A

MOTION SEQ. NO. 002

DECISION + ORDER ON MOTION

The following e-filed documents, listed by NYSCEF document number (Motion 002) 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52

were read on this motion to/for JUDGMENT - SUMMARY.

Plaintiffs' motion for summary judgment is denied and defendant's cross-motion for summary judgment is granted.

Background

This case concerns injuries suffered by the infant plaintiff when he leapt off of play equipment and broke his arm. The infant plaintiff's mother, plaintiff Tai, blames defendant for her child's injuries. She contends that she took him to defendant's premises that day for a five-year-old's birthday party for one of the infant plaintiff's classmates. Ms. Tai testified that she and the infant plaintiff were at the facility for only five to ten minutes prior to the accident and that there was "gymnastics equipment, like cushions and—that was set up for people to jump and run around" (NYSCEF Doc. No. 29 at 25). She originally was supposed to just drop off her child but decided to stay and "catch up" with the parents of the other children attending the party (*id.* at 23). She added that the birthday party was in a matted area with "the triangle and the mat, the

blocks that you jump off of, the cushion things" (*id*. at 35). Ms. Tai admitted that she did not see the accident and only heard her child cry out in pain (*id*. at 36).

Plaintiffs contend that defendant did not require any waiver to be signed prior to entering or using the premises. They contend that the infant plaintiff climbed on top of an apparatus and then, while holding hands with another child, jumped off the equipment. Plaintiffs argue that there was insufficient instruction and supervision by defendant.

They point to an affirmation from an assistant coach for the men's gymnastics team at Temple University in Philadelphia (NYSCEF Doc. No. 34). The coach, Mr. Turoff, contends that that children do not fully appreciate the risks of the sport, including injury and this is especially true of children who do not participate in the sport in any organized format or routine activity" (*id*. ¶ 3). He concludes that:

> "It is also quite evident in the video that the injured infant plaintiff was holding hands with another boy at the top of the slide and that they then jumped off together. As they jumped, it appears that the other boy provided a torque to the injured infant, which caused him to twist and land heavily onto his arm. There is no instructor watching the children to ensure that they do not jump off the slide in that manner and that they instead appropriately slide down the slide. Of course, this was an easily preventable accident had an instructor been doing his/her job and supervising the children. Based on the absence of any proper supervision, I conclude to a reasonable degree of certainty that Defendants did not adhere to the basic industry standards and guidelines set forth above" (*id*. ¶ 6).

Plaintiffs argue that the video affirmatively shows that defendant failed to provide adequate supervision and that it failed to have an instructor present to watch over the children.

In opposition and in support of its cross-motion, defendant argues that the video footage shows that the infant plaintiff, in less than four seconds, climbed up with another child onto a foam block and voluntarily jumped while playing. Defendant maintains that plaintiff Tai was standing right near her child while he was playing but had her back turned and was not watching him. It emphasizes that the accident happened in the "soft-play" area and not the gymnastics

area. Defendant contends that it followed its minimum "one instructor for every ten children" ratio.

It includes an affirmation from Ian Adamson, who it claims is an expert in sports and recreation. Mr. Adamson contends that "The video shows the incident was caused when S.C. was pulled off balance by holding hands with the other child when he jumped. At the eight second mark that the child in the red shirt jumped before S.C., pulling and rotating S.C.as he fell toward the floor" (NYSCEF Doc. No. 46, ¶ 14). He insists that defendant provided the proper guard under the obstacle in the form of carpet bonded flooring and that there was no evidence the foam block was deficient in any way (*id*. ¶ 18).

Mr. Adamson emphasizes that an employee for defendant was supervising and attended to the infant plaintiff only ten seconds after the fall (*id*. ¶ 22). He concludes that "The incident occurred about three seconds after S.C. arrived on the foam block and jumped. The actions of S.C. leading up to the incident is not considered horseplay or inappropriate behavior as defined by the USA Safety Handbook and it is unlikely an instructor would have anticipated the incident. None of the seven parents visible in the video in vicinity of the incident took action to prevent S.C. and the other child from jumping form the foam block, including Tai" (*id*. ¶ 30[d]).

Defendant argues that the incident was not caused by a dangerous condition and that plaintiffs' purported expert did not opine that the foam block constituted a danger.

In reply, plaintiffs acknowledge that their motion is not based upon a claim of dangerous condition but that they met their burden on their negligent supervision claim. Plaintiffs emphasize that there are no instructors visible in the video until after the accident and that for the first five seconds of the videos, several children are on top of the gym equipment. They claim

that both experts agree that supervision is mandatory under industry standards and that the video shows there was inadequate supervision.

In reply to its cross-motion, defendant insists that it does not operate as a school, childcare facility or daycare. It argues that its instructor-to-child ration exceeded its own minimum requirements, and that the infant plaintiff jumped after a few seconds.

Discussion

As an initial matter, the Court will consider all of the papers filed on this motion. The parties' complaints about timeliness are not a reason to ignore a fully briefed motion where all parties had a chance to properly respond. In other words, this is not a situation in which an untimely filing prevented a party from having an opportunity to submit a response.

And the Court will consider defendant's cross-motion as it was made against the moving parties—the plaintiffs.

As an initial finding, the Court grants the branch of defendant's motion that seeks to dismiss the portion of plaintiffs' complaint based on a dangerous condition. There is no evidence that the foam block at issue here malfunctioned, that it had a defect that caused the infant plaintiff's injuries or that it was an inherently dangerous piece of equipment. Notably, plaintiffs' purported expert did not opine that the foam block itself had any role in the infant plaintiff's accident. In short, there was nothing wrong with the physical facility.

The central question on this motion and cross-motion concerns plaintiffs' claims based on negligent supervision. The Court grants the branch of defendant's cross-motion that seeks to

dismiss on this ground. "In support of its motion, the defendant made a prima facie showing of entitlement to judgment as a matter of law by demonstrating that the accident was not proximately caused by its allegedly negligent supervision. Where, as here, the accident occurred as a result of a sudden and abrupt action and could not have been avoided by the most intense supervision, liability cannot be imposed on the owner" (*Jackson v Out E. Family Fun, LLC*, 79 AD3d 817, 818, 913 NYS2d 712 [2d Dept 2010] [internal quotations and citations omitted]).

The specific facts and circumstances of this incident compel the conclusion that the accident was a sudden and abrupt action that could not have been avoided absent barring the children from playing on this equipment altogether. Plaintiffs' papers appear, in this Court's view, to hold defendant to an absolute or strict liability standard when, in fact, defendant is only held to a negligent standard. A key example is plaintiffs' bizarre claim that "The instructors are supposed to be monitoring the kids, so they do not climb the equipment, yet an instructor does not show up until what appears to be 18 seconds after the infant Plaintiff broke his arm." (NYSCEF Doc. No. 48, ¶ 8). Under that reasoning, the mere fact that the children were playing on the equipment and got hurt is a basis to hold defendant liable—that is not a material issue of fact to defeat defendant's motion.

It also bears pointing out the precise scenario that occurred here. The videos show that the children were playing on a foam block that led to a slide. Right before the accident, three children go down the slide right in front of the infant plaintiff. Instead of following the child immediately in front, the infant plaintiff suddenly clasps the hands of the child behind him, turns, and jumps off with this other child. As plaintiffs' own expert observes, it was the fact that the children were holding hands that led to the infant plaintiff's injuries.

A review of the videos compels the clear conclusion that this sudden deviation (not going down the slide but jumping off instead) could not have been prevented even had there been active supervision immediately next to the slide. It would have required a split-second recognition that the children were about to jump off, an immediate instruction not to jump and an ability to somehow stop the kids from jumping anyway. Of course, the Court points out that the child with whom the infant plaintiff jumped off gets up immediately and seems to be perfectly fine and so it may be that the jumping itself was not improper (as plaintiff expert opines, the accident happened because the jump happened while holding hands). It is simply impracticable to expect any supervision to include such a quick reaction.

Moreover, the videos show at least six adults (defendant's expert says there were seven parents nearby) mere steps away from the slide, including the infant plaintiff's own mother, and no one told the children not to jump off. That also shows that the injuries from the fall were not reasonably foreseeable. Clearly, based on the evidence on these motions, it is the way the infant plaintiff landed after his sudden jump that caused his unfortunate injury – it was not the equipment or the cushioning or the supervision.

To the extent that plaintiffs make a sort of spoliations claim based upon the fact that there was allegedly not enough video turned over by defendant, that request is wholly without merit. It was made for the first time in reply and plaintiffs did not include any such demand in their notice of motion. To complain about the quality of a video production in this manner is wholly inappropriate. There was ample time to make an affirmative motion for such relief prior to the reply to a motion for summary judgment.

Summary

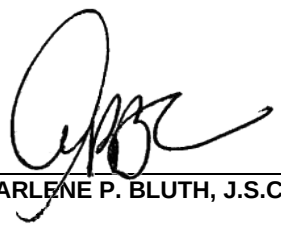
The parties do not dispute that the infant plaintiff was unfortunately seriously injured in this incident. Thankfully, plaintiff Tai testified that the infant plaintiff has been cleared to do regular activities without any restrictions (NYSCEF Doc. No. 29 at 71). This Court merely finds that the accident in question was unforeseeable and so sudden that nothing would have prevented the accident (except, perhaps, not attending the party with classmates at all).

Unlike a school or daycare, defendant did not purport to take custody of the children. And, even if it did, there were many, many adults – apparently, parents - standing right next to the children playing in this area, none of whom rushed in to prevent the accident from happening. No one saw any danger because it was so sudden and unforeseeable. As noted above, nothing on this record suggests that the equipment was insufficient or unsafe and plaintiffs' own expert agrees that the number of supervisors by defendant was reasonable. The fact is that sometimes accidents happen. That does not mean that defendant is inherently liable, particularly under these circumstances.

Accordingly, it is hereby

ORDERED that plaintiff's motion for summary judgment is denied; and it is further

ORDERED that defendant's cross-motion for summary judgment is granted and the Clerk is directed to enter judgment in favor of defendant and against plaintiffs along with costs and disbursements upon presentation of proper papers therefor.



2/11/2026
DATE

ARLENE P. BLUTH, J.S.C.

CHECK ONE:	X	CASE DISPOSED			NON-FINAL DISPOSITION		
		GRANTED		DENIED	GRANTED IN PART	X	OTHER
APPLICATION:		SETTLE ORDER			SUBMIT ORDER		
CHECK IF APPROPRIATE:		INCLUDES TRANSFER/REASSIGN			FIDUCIARY APPOINTMENT		REFERENCE