D.G. v Riverside Hawks
2026 NY Slip Op 30614(U)
February 18, 2026
Supreme Court, New York County
Docket Number: Index No. 950590/2021
Judge: Sabrina Kraus

SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: **HON. SABRINA KRAUS** **PART** **CVA 1**

Justice

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D. G.,

Plaintiff,

- v -

RIVERSIDE HAWKS, THE RIVERSIDE CHURCH IN THE CITY OF NEW YORK, RIVERSIDE HAWKS, HOPE, HEALTH AND HOOPS CORPORATION

Defendants.

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INDEX NO. 950590/2021

MOTION DATE 11/26/2025

MOTION SEQ. NO. 003

DECISION + ORDER ON MOTION

The following e-filed documents, listed by NYSCEF document number (Motion 003) 1, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149

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

BACKGROUND

D.G. commenced this action under the Child Victims Act ("CVA") seeking damages for sexual abuse allegedly perpetrated by former Riverside Hawks basketball coach Ernest Lorch ("Lorch") while participating in a basketball program run by defendants Riverside Hawks and The Riverside Church in the City of New York (collectively, "the Riverside Defendants").

Plaintiff asserts causes of action against each defendant for negligent supervision, negligent retention, negligent failure to warn, negligent failure to provide a safe and secure environment, and negligent training.

FACTS

The following facts from the record are undisputed.

The Riverside Defendants ran the Riverside Hawks youth basketball program located at the gymnasium of their church. Lorch was the founding director and head coach of the basketball program. Lorch was hired by Reverend Robert Polk in 1960, and Reverend Polk was introduced to Lorch by Reverend Wallace Short, Lorch's college roommate, who praised Lorch's qualifications as a basketball coach. Reverend Polk had no knowledge of Lorch's prior experience working with children, and Reverend Polk never received any complaints about Lorch behaving inappropriately with children.

The following information derives from Plaintiff's testimony.

Plaintiff alleges that he was sexually abused by Lorch between 1977 and 1978. On several occasions, Plaintiff claims that Lorch pulled Plaintiff into him from behind while they were both standing and clothed. This took place in the equipment room, and no one else was present. Moreover, Plaintiff went to Lorch's apartment, at which time Lorch penetrated Plaintiff. Additionally, Lorch disciplined Plaintiff by spanking him with a wooden paddle. This took place in private and no one else was present. Plaintiff has never seen Lorch use the paddle on anyone else. Plaintiff never told anyone about Lorch's abuse until he commenced this action.

PROCEDURAL HISTORY

On September 21, 2022, the Court (Love, J.S.C.) issued a decision and order dismissing Plaintiff's second cause of action for outrage and intentional infliction of emotional distress pursuant to CPLR § 3211(a)(7).

PENDING MOTIONS

On January 5, 2026, the Riverside Defendants moved for summary judgment dismissing Plaintiffs' complaint (NYSCEF Doc No. 58 [mot. seq. 003]). Plaintiff cross-moved seeking sanctions (NYSCEF Doc No. 84).

For the reasons set forth below, the motion is granted to the extent of dismissing Plaintiff's claims for Negligent Failure to Provide a Safe and Secure Environment Claim, and negligent failure to train minor team members, and the cross motion is denied in its entirety.

DISCUSSION

Summary judgment is a drastic remedy that should be granted only if no triable issues of fact exist, and the movant is entitled to judgment as a matter of law (*Alvarez v Prospect Hosp*., 68 NY2d 320, 324 [1986]). To establish entitlement to summary judgment, the moving party is required to "make a prima facie showing of entitlement to judgment as a matter of law, tendering sufficient evidence to eliminate any material issues of fact from the case" (*Winegrad v New York Univ. Med. Ctr*., 64 NY2d 851, 853 [1985]). Only if the moving party satisfies this burden does the burden shift to the nonmoving party "to produce evidentiary proof in admissible form sufficient to establish the existence of material issues of fact which require a trial of the action." *Alvarez*, 68 NY2d at 324). Further, a defendant's initial burden on summary judgment is met by submitting evidence showing why the plaintiff's claims fail rather than "merely point[ing] to perceived gaps" in the plaintiff's proof (*Matter of New York City Asbestos Litig.*, 174 AD3d 461, 461 [1st Dept 2019] [alteration in original]).

When the movant meets this burden, summary judgment will be denied only when the nonmovant provides evidence in admissible form demonstrating the existence of triable issues of fact (*Alvarez v Prospect Hosp.*, 68 NY2d 320, 324 [1986]). However, "[m]ere conclusions, expressions of hope, or unsubstantiated allegations or assertions are insufficient" to overcome a motion for summary judgment (*Justinian Capital SPC v WestLB AG*, 28 NY3d 160, 168 [2016] [alteration in original]). Courts view the evidence in a light most favorable to the nonmovant,

according the nonmovant "the benefit of every reasonable inference" (*Negri v Stop & Shop, Inc.*, 65 NY2d 625, 626 [1985]).

A plaintiff bringing a negligence action must allege "a duty owed to the plaintiff by the defendant, a breach of that duty, and injury proximately resulting therefrom" (*Moore Charitable Found. v PJT Partners, Inc.*, 40 NY3d 150, 157 [2023] [*Moore*], citing *Pasternack v Laboratory Corp. of Am. Holdings*, 27 NY3d 817, 825 [2016]; *Solomon v City of New York*, 66 NY2d 1026, 1027 [1985]; *Akins v Glens Falls City School Dist.*, 53 NY2d 325, 333 [1981]).

The Riverside Defendants Fail to Make a Prima Facie Case that They Lacked Actual or Constructive Notice of Lorch's Abusive Propensities or Conduct

Defendants' motion is essentially based on their claim that they lacked active and constructive notice of Lorch's propensity and conduct. Plaintiff counters with evidence that could serve as a basis for a jury to determine that defendants had actual and/or constructive notice.

In the following cases the Appellate Division, Second Department[1] reversed the trial court's award of summary judgment and dismissal of claims regarding sexual abuse, because defendants had not established an entitlement to judgment as a matter of law and questions regarding constructive notice and adequacy of supervision were questions of fact for the jury: *Sayegh v City of Yonkers* 228 AD2d 690 [2024]; *Stanton v Longwood Central School District* 233 AD3d 1010 [2024]; *CM v West Babylon Union Free School District* 231 AD3d 809 [2024]; *MCVAWCD-DOE v Columbus Avenue Elementary School*, 225 AD3d 845 [2024]; *Kastel v Patchogue-Medford Union Free School District* 234 AD3d 741 [2025]; *Sallustio v Southern*

[1] While this Court is of course mindful that this action is in the First Department, most of the appellate case law at this time comes from the Second Department primarily because the CVA cases outside of New York City are at a more advanced stage.

Westchester Board Cooperative Educational Services, 235 AD3d 680 [2025]; *Brauner v Locust Valley Central School District*, 234 AD3d 914 [2025]).

In this case, viewing the evidence in the light most favorable to the Plaintiff, there is evidence that defendants either knew or should have known that Lorch had abused minors or was acting inappropriately with the minors in the basketball program.

As far as constructive notice between 1970 and 1999, Plaintiff points to the following facts. Most of the players who came through the program either had to form a line and show Lorch their genitals or enter a room alone with him and do so, with a coach often standing outside. Most of the players were hounded at some point about their underwear, and Lorch's "jockstrap" requirement, or "briefs" requirement for children too young to wear a jockstrap, was openly announced and enforced in front of all the players and coaches. After practice, most players had to line up outside his office drop their pants and underwear and get paddled at some point. The paddling was audible through the door and was heard by the line of players waiting in front of Lorch's office and coaches often standing right outside of it. Paddling also took place on the court, with Lorch directing players to line up against the wall, bend over, and get paddled over their clothes for minor indiscretions like missing free throws. Lorch regularly held players after practice to speak with him alone and behind closed doors, and they often left with money. It was not uncommon for Lorch to take a player out of practice for thirty to forty-five minutes for tasks that would ordinarily take less than five to ten minutes to complete. Lorch would openly grab, rub, and hold players' buttocks during practice.

Plaintiff also asserts that defendants received actual knowledge of Lorch's conduct as early as 1971. In either 1971 or 1972, Ellis Williams informed an assistant coach, Billy Blocker, that Lorch had brought him into a room, made him pull his pants down, and spanked and rubbed

his buttocks. In response, Blocker essentially told him to shut up or he wouldn't be playing on the team anymore. Sometime in the mid-1970s, Mitchell Shuler discussed Lorch's paddling, jockstrap inspections, and voyeurism with another assistant coach, Mike Williams, who acknowledged Lorch's history of liking boys and revealed that he had walked in on Lorch touching a player's genitals. Robert Holmes testified that, in or around 1983, Lorch's assistant coaches began referring to him as one of "Ernie's boys," would ask him what he was doing while alone in rooms with Lorch and would make fun of him for getting paddled. In or around 1983, Coach Turtle witnessed a wide variety of "pervert stuff" and left the program because of it. More specifically, Turtle testified about witnessing Lorch watching players shower; paddling them; groping their buttocks; and pulling their shorts open and staring at their genitals. In or around 1984, another assistant coach, Deron "Sheeb" Johnson, walked in on Lorch with a player who was trying to pull his shorts up in an upstairs closet. Mr. Johnson, who was aware of the widespread rumors about Lorch, went downstairs, grabbed his kids, said it was time to go, and, on his way out, ran into a priest, who he asked "do you actually know what's going on with this program?" The priest responded that he would look into it.

In or around 1989, Demont Faison asked one Lorch's assistant coaches, Mike McIlwain, why he had to drop his shorts in front of Lorch and was told that is what goes on here and that he wouldn't be playing if he refused to do so. McIlwain approached another assistant coach, Dermon Player, sometime after about the underwear inspections, he was essentially given the same answer. Mr. Faison later approached Rev. Britton during one of her weekly teen events and, after telling her about the underwear inspections in Lorch's office, took her there. When they got to the locker room, they discovered the office was locked and Rev. Britton indicated that she would handle it because she had also heard rumors about Lorch. Mr. Faison also approached

an unidentified reverend with a mustache, informed him about the underwear inspections, and was told he'd look into it.

Given all of the above, the Court finds that defendants have failed to make a *prima facie* showing that they are entitled to judgment as a matter of law. Defendants have failed to establish that they lacked actual or constructive notice or that they properly supervised Lorch and Plaintiff during the basketball program. Defendants essentially rely on what they perceive to be gaps in Plaintiff's proof at trial.

Based on the foregoing, the Court also denies the Riverside Defendants' motion to dismiss Plaintiff's failure-to-warn claim as their argument is wholly based on their lack of actual or constructive notice of Lorch's abusive propensities or conduct.

Plaintiff's Claims for Negligent Failure To Provide A Safe And Secure Environment Claim And Negligent Failure To Train Minor Team Members Are Dismissed

The Court grants the Riverside Defendants' motion for summary dismissal of Plaintiffs' negligent failure to provide a safe and secure environment claim as it is duplicative of Plaintiffs' negligent retention and supervision claim (*e.g. John Doe 42 v Yeshiva Univ.*, 2026 NY Slip Op 00225, at *1 [1st Dept, Jan. 20, 2026]; *see also Brophy v Big Bros. Big Sisters of Am., Inc.*, 224 AD3d 866, 869 [2d Dept 2024] [*holding the same under CPLR § 3211(a)(7)*]).

Additionally, granted without opposition is dismissal of the part of Plaintiff's fourth cause of action based on negligent failure to train minor team members.

The Court Denies Plaintiff's Cross-Motion for Sanctions.

Plaintiff argues that the motion of the Riverside Defendants was frivolous and that he should be awarded sanctions for the cost of opposing the motion. Plaintiff essentially asserts the doctrine of collateral estoppel, arguing that this Court's denials of the Riverside Defendants'

motions for summary judgment in other cases involving Lorch's alleged abuse should preclude them from relitigating the issue in similar cases.

Collateral estoppel precludes a party from relitigating an issue "which has previously been decided against [that party] in a proceeding in which [that party] had a fair opportunity to fully litigate the point" (*Matter of Dunn*, 24 NY3d 699, 704 [2015]). To successfully assert the doctrine of collateral estoppel, the prior proceeding being asserted as a bar must have been disposed "on the merits" (*Clearwater Realty Co. v Hernandez*, 256 AD2d 100, 101 [1st Dept 1998]). However, "denial of a motion for summary judgment is not a bar to a similar motion in a subsequent action because it is not an adjudication on the merits" (*Neighborhood Partnership Hous. Dev. Fund v Blakel Constr. Corp.*, 34 AD3d 303, 304 [1st Dept 2006], citing *Clearwater Realty Co.*, 256 AD2d at 101; *see also Horvath v Red Frog Events, LLC*, 227 AD3d 780, 781 [2d Dept 2024]). Previous denials of the Riverside Defendants' motions involving issues possibly related to this matter do not bar them under collateral estoppel from relitigating the issues here.

The Court also notes that this decision granted portions of the relief requested by the Riverside Defendants which further establishes that the instant motion was not frivolous.

Accordingly, the Court denies Plaintiff's cross-motion seeking an award of sanctions as the Riverside Defendants' filing of their instant motion was neither collaterally estopped nor frivolous.

CONCLUSION

WHEREFORE it is hereby:

ORDERED that the motion of the Riverside Defendants (mot. seq. 003) is granted to the extent that the portion of Plaintiff's first cause of action based in negligent failure to provide a safe and secure environment is dismissed; and it is further

ORDERED that the motion of the Riverside Defendants (mot. seq. 003) is granted to dismiss the part of Plaintiff's fourth cause of action based on negligent failure to train minor team members; and it is further

ORDERED that all other requests for relief are denied; and it is further

ORDERED that, within twenty (20) days from entry of this order, Plaintiff shall serve a copy of this order with notice of entry on the Clerk of the General Clerk's Office (60 Centre Street, Room 119, New York, NY 10007); and it is further

ORDERED that such service upon the Clerk shall be made in accordance with the procedures set forth in the *Protocol on Courthouse and County Clerk Procedures for Electronically Filed Cases* (accessible at the "E-Filing" page on the court's website at the address www.nycourts.gov/supctmanh); and it is further

ORDERED that the action is reassigned to Justice Alexander M. Tisch for trial; and

ORDERED that the parties are directed to reach out to Justice Tisch's Part Clerk and request a date for a pre-trial conference.

This constitutes the decision and order of this Court.

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2/18/2026
DATE

SABRINA KRAUS, J.S.C.

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