

Fan's Failure to Notify of Defective Seat Condition Results in Mets Victory By Carla Varriale of Havkins, Rosenfeld, Ritzert & Varriale

A New York state court judge has granted a motion for summary judgment brought by the City of New York and Sterling Mets, L.P. (a.k.a. the New York Mets) in a case where a seat at Shea Stadium collapsed and a fan, the plaintiff, was injured.

The plaintiff claimed that his injuries, which took place on June 16, 2002, were caused by the City and Sterling's negligence and that the defendants created the seat condition and had actual and constructive notice of the condition.

In support of their motion for summary judgment, the City and Sterling relied upon the plaintiff's own deposition testimony. The plaintiff testified that while sitting in his seat at a baseball game at Shea Stadium, he stood up to cheer in the eighth inning, then reached to push the seat back down and that as he was about to sit down again, the seat collapsed.

The plaintiff admitted that he did not notice any problems with his seat prior to his accident. Further, the City's Stadium Director, testified that before the start of the baseball season all of the seats at the Stadium are manually tested and that the seats in a different section of the Stadium are inspected before every home baseball game. The City's Stadium Director also averred that although he searched the City's repair records concerning the subject seat prior to the date of accident, no such records were found.

Justice Pineda-Kirwan held that the City and Sterling established prima facie evidence that they did not create the seat condition and did not have actual or constructive notice of the condition. The Court found that in opposition to the defendants' motion, the plaintiff failed to raise a triable issue of fact.

The Court rejected the plaintiff's argument that his lawsuit was viable based on the doctrine of *res ipsa loquitur*, which under certain circumstances allow a jury to consider the circumstantial evidence and infer that the defendants were negligent. Justice Pineda-Kirwan concluded that this doctrine was misplaced because the seats at Shea Stadium were not within the exclusive control of the City or Sterling.

Robert Russell v. The City of New York and NY Mets Sterling Doubleday Enterprises;
Civil Court of the City of New York, Queens County; Index Number 963/04; December 17, 2007

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