

SPORTS FACILITIES

How the law affects the sports facilities industry

and the

LAW

ADA Safety Becomes an Issue in College Basketball Brawl

By Gil Fried, Professor/Chair Sport Management Department, University of New Haven

When we think about ADA seating areas, we often think about line of sight issues. The ADA mandates seating location at every price point in an arena or stadium. In recent years there has been significant litigation associated with ribbons, public address systems, and scoreboards and what needs to be communicated via those and other mediums to make sure everyone can enjoy the experience in the most inclusive manner possible.

One area that is often not examined is fan safety. All fans need to be protected. Some might think about it in terms of sitting at a baseball game and whether all seats, including accessible seating areas, are covered by netting. In terms of protective

netting, the argument has been focused primarily on children who have been hit by foul balls. The image of young people being hit by screaming foul balls is singled into the consciousness of many sport fans. Not as “popular” in the media are pictures and stories of older people who have been hit by foul balls. This includes the 79-year-old Los Angeles Dodgers fan who was hit by a foul ball in 2018 and later passed away. Even less coverage is given to disabled fans. Someone who is mobility impaired might not be able to avoid contact with a foul ball coming at them. The author remembers attending a hockey game several years ago and saw someone in a wheelchair hit in the chest by a hockey puck. The fan had no way to move or avoid the puck. Protecting handicapped patrons from foul balls and

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New York State Appeals Court Affirms Assumption of Risk Ruling in Case Involving Basketball Court

In a majority ruling, a New York state appeals court has affirmed the ruling of a trial court that a basketball player assumed the risk of injury when he fell into a chain-link fence along the end line of a basketball court.

On June 7, 2014, Ryan Franco was playing basketball on an outdoor court when he suffered an injury after he fell into a chain-link fence along the end line of the court. The fence was located between the backboard and its supporting post, which

had been installed beyond the end line and outside of the basketball court.

Franco filed a personal injury lawsuit against 1200 Master Association, Inc., which was responsible for maintaining the court, claiming the court was defective, because “the fence was placed too close to the court in contravention of accepted industry standards.”

The defendant moved for summary judgment, arguing that the action was barred by the doctrine of primary assumption of

risk. The trial court granted the defendant’s motion, leading to the appeal.

The appeals court noted that under the doctrine of primary assumption of risk, “by engaging in a sport or recreational activity, a participant consents to those commonly appreciated risks which are inherent in and arise out of the nature of the sport generally and flow from such participation” (Morgan v State of New York, 90 NY2d 471, 484, 685 N.E.2d 202, 662 N.Y.S.2d 421; see

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U.S. Attorney's Office Reaches ADA Settlement with North Dakota State University Regarding Athletic Complex

The U.S. Attorney's Office for the District of North Dakota has completed its investigation and entered into a settlement agreement with North Dakota State University to resolve allegations that the Sanford Health Athletic Complex (SHAC) violated the Americans with Disabilities Act of 1990 (ADA).

The SHAC opened in 2016 as an extension and renovation of the Bison Sports Complex, which was originally constructed in 1970. The SHAC is a multipurpose 5,685-seat arena used for basketball, wrestling, and training.

The settlement agreement resolves an ADA complaint alleging that the SHAC was not fully accessible to individuals with disabilities.

During its investigation, the U.S. Attorney's Office found that the SHAC did not provide sufficient wheelchair seating, seating for companions to users of wheelchairs, accessible aisle seating, and further, that the accessible seating provided was not integrated and dispersed throughout the facility. The U.S. Attorney's Office also found that the SHAC did not provide adequate accessible parking, and the toilet rooms, signage, concession stands, ramps, drinking fountains, and assistive listening devices did not comply with the ADA's requirements.

Under the settlement agreement, NDSU will provide adequate, integrated, and dispersed wheelchair and companion seating, provide proper accessible parking, and cure

all other noted violations of the ADA.

A few examples of this include:

Adding at least one 30-minute parking space in the 30-minute visitor lot that is accessible.

Providing at least one companion seat for each of the 40 wheelchair spots.

Improving exit door signage so that it is more tactile in "raised characters and braille."

Under federal law, discrimination on the basis of a disability in the services, programs, or activities of a public entity, such as NDSU, is prohibited. Newly constructed buildings, like the SHAC, are required to comply with the ADA's program accessibility requirements and be readily accessible to and usable by

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EDITOR IN CHIEF

Gil Fried, Esq.

Chair and Professor
Sport Management Department
College of Business
University of New Haven
300 Boston Post Road
West Haven, CT 06516
(203) 932-7081
gfried@newhaven.edu

MANAGING EDITOR

Holt Hackney, Esq.

Hackney Publications
P.O. Box 684611
Austin, Texas 78768
hhackney@hackneypublications.com

Please direct editorial or subscription inquiries to Hackney Publications at: P.O. Box 684611, Austin, TX 78768, info@hackneypublications.com

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Claims & Risk Management Coordinator,
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Email: tseidler@unm.edu

Russ Simons

Chief Listening Officer, Managing Partner
Venue Solutions Group
Email: russ.simons@venuesolutionsgroup.com

John Tyrrell

Ricci Tyrrell Johnson & Grey
jttyrell@rtjglaw.com

Carla Varriale, Esq.

Segal McCambridge Singer & Mahoney
Carla.Varriale@gmail.com

Sports Lawyer John Tyrrell Shares his Secrets for Managing Risk in a Sports Facility Setting

John Tyrrell brings experience and passion to his craft as a sports lawyer. His clients know it, especially those in the sports facility industry. They have seen first-hand how his approach, especially with regard to the importance of properly training employees, has helped them avert litigation.

We asked John to visit with us and tell us a little about his approach and why it has been so successful. That interview follows.

Q: *Is there a risk of overloading employees with training from a risk management standpoint?*

A: If you load event personnel with too much information about risk, it can lead them to not being comfortable when it comes to doing their job as trained. If they think too much about it, it can inhibit inventiveness and problem solving. So the main thing is you want them trained to perform their roles. If the personnel are properly trained, the goals of risk management and management run pretty much parallel with each other, at least before an incident occurs.

Q: *Can you elaborate on this?*

A: What I always like to explain to my clients is that, when you talk about litigation, you can win or lose lawsuits. But the one lawsuit that you can never ever lose is the one that's never filed because you prevented the accident to begin with.

When you are dealing with management and risk management before an accident, the concerns really merge together. What you're talking about is training personnel to do their jobs.

This can be in-person training, with online refresher training or other types. You want to put them into a situation where, almost akin to muscle memory. They know what your standard operating procedures are. They know what your protocols are, and then they will react in accordance with those protocols when the circumstance arises.

There are two quotes that I often use when talking about training, and they are



John Tyrrell

from two very different sources, one from Aristotle and one from Vince Lombardi.

The one from Aristotle is that, "Excellence is an art won by training and habituation."

The one from Vince Lombardi is that, "Perfection is not attainable. But if we chase perfection, we can catch excellence."

They both kind of mean the same thing, which is: If your upfront prophylactic training is good enough, then your people will react in accordance with your protocols when they're called upon to do so.

Q: *And what about after the accident occurs?*

A: After an accident occurs, there are two stages. Immediately after the accident, you still want them to instinctively and thoughtfully perform as trained. What I mean by that is they need to handle the emergency first. Whether it's calling for medical aid, whether it's calling for law enforcement aid, whether it's cordoning off an area, whether it's calling for mechanical stadium operations to fix a physical hazard, etc. — whatever it is they need to take care of that first.

Where risk management and management becomes more nuanced is when personnel are able afterward to record what has happened both in incident reports and

in statements or oral accounts of what occurred.

Where you can go sideways at that stage is if your personnel are more focused on giving you their opinion about what happened than telling you the facts of what they observed. People will do that. Now, you don't want to inhibit good advice from someone within their area of expertise, and all of these folks do have areas of expertise. They've been trained by you, so they are qualified and competent at a level that people off the street are not. And a lot of them have been doing this for years and years and years, so they have a level of expertise. So, you don't want to inhibit them from giving you any opinions at all. What you want to do is discourage them from giving opinions that have absolutely no value to you.

What I mean by that is, if they venture outside of their area of expertise to give you opinions on things like the structural componentry of a piece of material that's part of the stadium. Or the performance of independent contracted vendors, whether it be security or cleaning or something like that, that's outside of their bailiwick.

Opinions in that area are always a bad idea because there's no pro to them, there's only a con. The con is they can be difficult to explain if litigation occurs. There's no pro because they're valueless. They're being given by someone who doesn't have the foundation to give the opinion. So, what you really want to do is have them record as many facts as you can, and only give opinions if they're within their area of concentration.

Q: *How has the training of facilities personnel changed over the last decade, or has it?*

A: It's changed for sure. There are more mechanisms by which you can train people. I mean, online training is much more accessible. People can train from handheld devices. They can train from home. You

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Tyrrell Shares Secrets for Managing Risk in Sports Facility Setting

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still may want to have the *esprit de corps* and camaraderie effect of getting people together, and the motivational aspect of getting people together and training them in that way.

But certainly, you can impart information in different technological ways. Training doesn't just take place just in the preseason. There are training updates that lead up to every individual event. Every individual event has different concerns, be it weather, be it your opponent and whether that brings a rivalry aspect to the event. Be it the game start time and whether darkness or daylight has an effect, things like that.

So, you're going to have training information provided continuously, right up to the point of the event. And if you want to impart event-specific, as opposed to protocol-general information, then you have all sorts of ways you can do that, through portals and emails and websites and text messages, that you just couldn't

do so earlier.

Q: *What is the attorney's role in this training aspect, and how has that changed, and how will it change?*

A: The role is to give everyone sort of an overview of how preventing accidents can end up actually preventing lawsuits. There aren't two separate goals. They aren't two separate things we strive for. Again, the best way to win litigation is to never have it. So, explaining that is one thing. Once we get into the litigation aspect, I think giving somebody an appreciation for how they may actually be impacted by a litigation process, as either a witness having to give a deposition, things like that. This will give them the idea of why it's important to record information while independent witnesses are still available to be found, while physical evidence can be retained, while photographs can be taken, etc.

Q: *When should a facility manager reach*

out to an attorney?

A: The attorney can provide value upfront, in the prophylactic stages, as opposed to just when something goes awry. Through my experience, I can provide risk management techniques by assessing whether something is an unreasonable risk, by assessing — based on my knowledge of what the industry does — how to address that risk and make it so that it is no longer unreasonable, and how to record our activities from start one to finish. Because if we ever do have to get into a courtroom, I'm going to have to demonstrate that we exercised reasonable care. And the best thing that I can do there is provide evidence of all of the things we do. So, cataloging those and putting them into an understandable presentation is really easier done if you think about it in real time, when it's happening, than if you try to reconstruct it two years later when the lawsuit comes. ●

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Segal McCambridge Hires Carla Varriale-Barker, Establishes Sports, Recreation, Amusement, Hospitality Practice Group

Segal McCambridge, a national litigation firm that added its first office in Florida last month, has announced that Carla Varriale-Barker will join the firm on March 2 as a shareholder in the New York office. She will lead a practice group focused on the sports, recreation, amusement, and hospitality industries.

An experienced and creative litigator, Varriale-Barker has a portfolio of clients in the aforementioned industries, ranging from professional and amateur baseball teams to amusement parks to the U.S. Center for SafeSport (an organization established by Congress to address sexual abuse, bullying, and other misconduct) and in the U.S. Olympic and Paralympic movement.

“As a preeminent national litigation firm, we are always on the lookout for dynamic, trial-ready attorneys who share our commitment to client service,” said Mark Crane, Segal McCambridge’s Managing Share-

holder. “Carla has a tremendous reputation as a litigator and counselor in New York, New Jersey and beyond, making her a great fit for Segal McCambridge as we continue to grow and diversify our New York and Jersey City offices and expand our broader East Coast presence, including our new Ft. Lauderdale office.”

Varriale-Barker said she wanted to join a dynamic firm with a deep bench and a positive culture.

“Segal McCambridge gives my clients greater support in states, including New Jersey, where they are located,” she said. “That’s added value for my clients. When we started to discuss synergies across other practice areas, I knew that Segal McCambridge was dedicated to developing this practice. The fact that the firm also has a commitment to public service and diversity and inclusion was also important to me, and made the decision to join the firm an

easy one.”

Crane suggested that the feeling was mutual.

“Carla’s thriving practice overlaps with many of the liability defense areas for which Segal McCambridge is well known,” he said. “At the same time, her unique areas of expertise, such as her highly successful practice in the sports, recreation and amusement industries, present our firm with excellent opportunities for growth and diversification. We are excited to have Carla build her practice within our national platform.”

Industry observers, such as *Sports Facilities and the Law* Editor in Chief Gil Fried said the move was win-win for both parties.

“What Segal McCambridge is getting in Carla is someone so unique that she can cover a broad range of legal topics with depth and clarity,” said Fried, a sports law professor and chair of the sports manage-

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hockey pucks is just one issue. There are also other potential concerns associated with handicapped fans, ranging from fights around them, acts of mascots and hawkers, and when fans are placed in a potentially dangerous area.

One matter I had several years ago entailed a group of concerned parents who hired me to argue in front of a school board for changing part of a recently renovated stadium. The school in Massachusetts had undergone a major renovation and added elements to the stadium that connected it to a school building and expanded the historic stadium's footprint. Since the facility's renovations needed to comply with the ADA the school decided to pour some cement on the field's sidelines and make it an area where those in wheelchairs could be accommodated. The three-foot-wide strip ran for around 80 yards and was around 10 feet from the football sidelines.

The problems were severalfold. The designated area was close to football action and those in wheelchairs might have been immobile. Furthermore, there was no good location for companion seating as required by the ADA. Finally, the field was also used for soccer, and when soccer was played, the cement was very close to the soccer sideline (less than two feet away). During one soccer game a kid was tackled out of bounds and hit the cement. Luckily, he was not seriously injured, but that was the final straw for the parents.

I attended the school board meeting and raised the issues concerning the cement strip since the school board had not formally responded to the parents' concerns. Only after I had threatened to sue on behalf of the parents did the school board decide to explore other options. The school board ended up removing the cement area and moving the ADA seating

strip to a spot in the new construction area that provided more room and less potential harm. This would still not accommodate all ADA concerns, but at least it resolved the parents' safety concerns.

This matter came to mind when I saw the recent Kansas-Kansas State men's basketball game where a fight broke out in the waning seconds of the game. "It happened in the handicap seating," Kansas Coach Bill Self said. This raised a lot of concern for me when this might have been the only area for disabled fans to sit. In fact, the Kansas University athletics website has a disability information page and it specifically mentions that: "Wheelchair accessible seating is available on the floor level at the north and south ends of Allen Fieldhouse."

I was wondering how many disabled fans were seated there, how much room

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ADA Safety Becomes Issue in Basketball Brawl

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was there between seats/wheelchairs, what warnings were given, did players know, could another location be found for concerned fans, was there a warning on tickets, did ushers know what to do, etc...? I do not know if the facility managers and security personnel have trained for an incident in that spot, but now that the incident has happened it has put all other schools on notice that this is a concern that needs to be addressed. I would also encourage disabled fans to speak out and raise any concerns they might have concerning their seating area. Able-bodied individuals might not understand or appreciate some of the risks disabled patrons might face (possibly due to the line of sight those in wheelchairs might have). It should also be examined in light of numerous other disabilities

as wheelchair using patrons represent only a small sliver of the total number of disabled patrons going to facilities. Another area of concern that should be considered is service animals. What if there were service animals at the end of the court? What could happen to them or players if the fight spilled over? Imagine a dog being stepped on and getting hurt or a dog biting a player.

The Kansas example helps show why it is so important to pay attention to the little details. Facility administrators might have felt placing disabled fans in that location integrated them in the fan experience. But now safety should be explored at KU and all other facilities where fans might be close to the action or possibly in harms way. ●

ADA Settlement Regarding NDSU Complex Reached

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individuals with disabilities, including individuals who use wheelchairs.

“Protecting access for individuals with disabilities will continue to be a priority for the District of North Dakota,” said United States Attorney Drew H. Wrigley. “North Dakota State University cooperated throughout this investigation and I commend its commitment to take swift remedial action to address all ADA violations when these barriers to accessibility were brought to its attention,” adding that “the SHAC is a marvelous venue, and this settlement will help ensure access for all to enjoy the hosted events in comfort.”

This matter was handled by Assistant U.S. Attorneys Melissa H. Burkland and Tara Vavrosky Iversen of the District of North Dakota. ●

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Captioning For Hearing Impaired Is Becoming a Necessity

Today more than ever, the hearing impaired can go to a game and follow the action as if they could hear it. That, in part, is because of the work of LNS Captioning and its founder, Carol Studenmund. We recently interviewed Carol to learn more about the company and the niche it occupies. Here's that interview.

Question: *How do sports venues currently handle meeting the needs of the hearing impaired?*

Answer: Sports venues have many captioning service options to choose from:

- Certified stenographic captioners
- Voice writer captioners – certified or uncertified
- Automated Speech Recognition captioning

There are various levels of rates for these services. There are also different workflows for live people providing the captioning versus automated captioning.

Q: *How do you approach it?*

A: We only work with certified stenographic captioners. Most of the high-profile venues use top of the line live captioners. The workflow is not as simple as feeding the live PA feed into the automated system. However, the output of automated captioning typically reflects the lack of a human connection to the process.

The way we work is we schedule our captioners months in advance for all of our professional football, basketball, and hockey games. The same goes for our NCAA level work: football, basketball, gymnastics, track and field, etc. Our clients know to expect a confirmation email from us a day or so before the next event, which tells the production staff who the specific captioner is, how to reach them, and requests the PA script for the event. Then we have a set time for the captioner to test that they are connected to the display boards, have high-quality audio, and then we're ready to go.

Q: *We hear the term fan engagement a lot. How does that term intersect with what you do?*

A: Through our experience in captioning for stadiums that host NFL Super Bowls, MLS Cup games, NCAA bowl games, and other very high-profile events, they place an emphasis on fan engagement. In recent years, they have recognized that captioning services are needed and appreciated by many fans. Face it, everybody has trouble hearing in a large, noisy venue. It only makes sense to ensure that the captions are of the same quality as every other element of fan engagement.

Q: *Where are the captions placed in a stadium?*

A: This varies from venue to venue. Many of our clients show the captions up on a large screen, just like TV captions. When an Oregon Ducks football game

See Captioning on Page 9

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Captioning For Hearing Impaired Is Becoming a Necessity at Stadiums

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is shown on national TV, the viewers can see there are live captions on the huge TV screen in Autzen Stadium. A few of our clients provide a link to streaming captions. There just may not be enough space in the venue to display the captions. The stadium will put the URL to our streaming captions on their team website. That means any fan anywhere in the world can then pull up that URL and read along during a game. Whether the captions are shown on a huge screen or streamed on a URL, the quality still needs to be excellent.

We are seeing an expanding demand for high-quality captioning in the corporate world. These are clients who need to provide access for employees and members of the public who have hearing disabilities. One Fortune 100 company with whom we work has a rule about captioning: any meeting with more than 50 people in attendance must include live captioning. And the

people who pay for the captioning service are watching and they expect the best.

Q: *What's an example of automated captioning system and its strengths and weaknesses?*

A: I once captioned the NBA All-Star game on site at the venue. The PA announcer kept mispronouncing the name of one of the All Stars — over and over and over again. I believe the announcer had trouble pronouncing the name. In that instance, I did *not* write what the announcer was saying. I correctly wrote the player's name. That's where the human touch is needed. An automated captioning system would have kept writing the wrong name, which probably would have led to embarrassment for a lot of people in the stadium.

There are new technologies for providing captioning that operate on voice recognition. And in certain settings, those are quite appropriate. One example would be a small

meeting in a work setting. An employee who needs access to the meeting could read along with what their co-workers are saying, and stop and ask for clarification as needed. That's a long way from captioning in the Super Bowl stadium, where the captions need to be as close to perfect as possible.

The bottom line is quality. Our clients have high expectations for quality in all aspects of the game-day experience. We make sure the quality of our captions meets and exceeds those expectations.

Automatic captioning sounds great, but it's not. It doesn't have, obviously, the human component. For the most part, there's no punctuation and no speaker identifications. Or if they have speaker identifications, they're just thrown in there to say that they have them.

On the corporate level, we have to sign non-disclosure agreements to work

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Latest Edition of *Managing Sport Facilities* Is Out

You don't have to be a professor, or student to appreciate *Managing Sport Facilities, Fourth Edition With Web Study Guide*, which was recently published by Human Kinetics.

Written by Gil B. Fried, our editor in chief, and Matthew Kastel, the Stadium Manager—Oriole Park at Camden Yards at Maryland Stadium Authority and President of the Stadium Managers Association, this nearly 500-page book merges the historical and theoretical foundations of the sport facility industry with real-world challenges and insights to create an engaging, modern guide for effective sport facility management. This updated edition provides a comprehensive knowledge base for the wide-ranging duties of sport facility managers and prepares students to enter the field ready to confront the responsibilities they will face on the job.

Joining field expert Fried is Kastel, who has more than 25 years of experience. To-

gether, the authors blend extensive research and insights from the professional industry with everyday occurrences at sport facilities.

With an increased focus on in-depth, real-world examples of issues facing facility managers today, this edition takes a detailed look at different types of facilities, including stadiums, arenas, fitness centers, parks, and multiuse facilities, and it addresses the various challenges that each presents. Contributions from industry professionals provide an inside look at their facility's unique issues and concerns, from systems and operations to maintenance and green practices.

To emphasize practical applications of the content, a new web study guide includes seven Day in the Life videos that follow the daily routine of a facility executive and offer students an inside look at real-life facility management. Additional tools include:

- Video clips of interviews with industry professionals provide mul-

tifaceted career insights and advice.

- Gil's Sportsplex, an in-depth sport facility case study, covers strategic planning, construction, financial analysis, and more.
- Sample blueprints highlight the construction and anatomy of a sport facility.
- A list of Internet resources for each chapter encourages further learning.

Also new to this edition is a chapter on mid-event management, which covers strategies for managers to use during events as issues arrive so they are prepared for all phases of a facility event.

Throughout the book, examples capture the essence of being a facility manager. Opening chapter scenarios introduce industry executives and show how the material applies to daily activities. Facility Focus

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Assumption of Risk Ruling in Case Involving Basketball Court Affirmed

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Custodi v Town of Amherst, 20 NY3d 83, 88, 980 N.E.2d 933, 957 N.Y.S.2d 268; *Zachary G. v Young Israel of Woodmere*, 95 AD3d 946, 946, 944 N.Y.S.2d 203). “Risks inherent in a sporting activity are those which are known, apparent, natural, or reasonably foreseeable consequences of the participation” (*Mamati v City of N.Y. Parks & Recreation*, 123 AD3d 671, 672, 997 N.Y.S.2d 731; see *Morgan v State of New York*, 90 NY2d at 484).

“Assumption of risk is not an absolute defense but a measure of the defendant’s duty of care (see *Turcotte v Fell*, 68 NY2d 432, 439, 502 N.E.2d 964, 510 N.Y.S.2d 49). If the risks are known by or perfectly obvious to the player, he or she has consented to them and the defendant has discharged its duty of care by making the conditions as safe as they appear to be (see *id.* at 439; *Brown v City of New York*, 69 AD3d 893, 893, 895 N.Y.S.2d 442).”

The appeals court noted that the defendants “made a prima facie showing of entitlement to judgment (based on the doctrine) by demonstrating that the proximity of the fence to the court was open and obvious, and thus, the risk of collision with the fence was inherent in playing on that court (see *Trevett v City of Little Falls*, 6 NY3d 884, 885, 849 N.E.2d 961, 816 N.Y.S.2d 738; *Perez v New York City Dept. of Educ.*, 115 AD3d 921, 922, 982 N.Y.S.2d 577; *Ribaudo v La Salle Inst.*, 45 AD3d 556, 557, 846 N.Y.S.2d 209;

Reynolds v Jefferson Val. Racquet Club, 238 AD2d 493, 494, 657 N.Y.S.2d 907; see also *Sykes v County of Erie*, 94 N.Y.2d 912, 728 N.E.2d 973, 707 N.Y.S.2d 374).

“In opposition, the plaintiff failed to raise a triable issue of fact as to whether the placement of the fence created a risk beyond those inherent to the sport of basketball, as there was no evidence in the record that the location of the fence violated ‘prevailing industry standards’ relating to basketball courts (*Kazlow v City of New York*, 253 AD2d 411, 411, 676 N.Y.S.2d 229 [internal quotation marks omitted]; see *Perez v New York City Dept. of Educ.*, 115 AD3d at 922; *Ribaudo v La Salle Inst.*, 45 AD3d at 557; but see *Greenburg v Peekskill City School Dist.*, 255 AD2d 487, 488, 680 N.Y.S.2d 622).”

Dissenting Judge Points to Expert’s Assessment of Defective Design

In a dissent, one of the justices noted that “a participant in a sporting or recreational activity does not automatically assume all the risks of injury while utilizing a sports or recreational facility that is not properly maintained for foreseeable users. The owner of a sports or recreational facility has a duty to maintain those premises in a reasonably safe condition for its foreseeable users. If the owner maintains the premises in a less than optimal condition that is nonetheless used in an ordinary manner by foreseeable users,

both the owner and the user may each bear some comparative fault if an injury occurs to a person using the facility.”

Elaborating on this, the dissenting judge wrote that “the plaintiff raised a triable issue of fact for a jury to resolve. In opposition to the defendant’s motion, the plaintiff submitted the affidavit of an expert who opined that the basketball court was defectively designed because the fence was not installed at a safe distance from the court and was not properly padded. The plaintiff’s expert opined that a typical basketball court layout requires a distance of four feet from the backboard to the end line, and a minimum distance of three feet from the end line to any obstructions. By not complying with such minimum standards for basketball courts, the defendants significantly increased the risk of players running into the unprotected fence, which was on the edge of the basketball court rather than a minimum of three feet beyond the basketball court. This evidence was sufficient to raise a triable issue of fact as to whether the placement of the fence less than three feet behind the backboard created a dangerous condition over and above the usual dangers inherent in the sport of basketball (see *Greenburg v Peekskill City School Dist.*, 255 AD2d 487, 680 N.Y.S.2d 622; see also *Simone v Doscas*, 142 AD3d 494, 35 N.Y.S.3d 720). Therefore, the defendant’s motion for summary judgment dismissing the complaint should be denied so that a jury may resolve this issue of fact.” ●

Latest Edition of *Managing Sport Facilities* Is Out

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sidebars provide facts about facilities and strategies for facility success, while Behind the Scenes sections present unique concerns and strategies to make facility managers more successful professionals. Students will develop practical knowledge, which will prepare them to make decisions in all areas of facility management, including

building design and construction, operations, marketing, legal issues, finance, and event management.

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Ryan Franco v. 1200 Master Association, Inc., et al.; Supreme Court of New York, Appellate Division, Second Department; 2019 N.Y. App. Div. LEXIS 8436; 11/20/19

Attorneys of Record: (for appellant) Stevens & Traub PLLC, New York, NY (Peter P. Traub of counsel). (for respondents) Law Office of Daniel J. McCarey, LLC, New York, NY.

Wyoming Legislators Continue Push to Allow Guns at UW Athletic Events

After a bill that would have repealed most gun-free zones in Wyoming failed an introductory vote in the Senate, supporters of the bill filed a new and similar bill in the House. Senate File 88 won majority support for introduction in the Wyoming Senate in early February. But that wasn't enough as it needed a 2/3 majority. Undaunted, Rep. Tim Salazar [R-Fremont County] sponsored a mirror bill, [House Bill 180](#), the net day, which would repeal gun-free zones in schools, governmental meetings and colleges, and universities, including the University of Wyoming.

Proposed Clippers Arena Meets Landmark Environmental Standards

In a big step forward for the proposed LA Clippers arena, Gov. Gavin Newsom and the California Legislature's Joint Budget Committee have certified that the state-of-the-art Inglewood project will be "net-zero" for greenhouse gases over its construction period and operational life.

"We want to make sure that all citizens of Inglewood benefit from having the Clippers as a new neighbor," he said. "The fact that we agreed to these unprecedented measures proves it."

The approvals mean that the proposed LA Clippers arena complex has achieved the most stringent environmental standards for a sports venue in the state's history. The certifications follow a similar determination in November by the California Air Resources Board.

The proposed Inglewood Basketball and Entertainment Center, at the intersection of West Century Boulevard and South Prairie Avenue, includes an 18,000-seat arena, the Clippers' team offices, practice facility, sports medicine clinic, and an outdoor plaza with community, retail and restaurant uses.

The arena project will be LEED Gold certified, meaning it achieves rigorous, internationally recognized environmental standards for building performance. Its sustainability measures include:

- A "Zero Waste" program to reduce and divert waste from landfills.
- An on-site solar energy generation system that will produce more than 1 million kilowatt hours of electricity per year and extensive use of "green" (i.e., renewable) energy sources.
- Replacement of 10 Inglewood municipal fleet vehicles with zero-emission cars or vans.
- Providing zero-emission vehicles for local transit service in Inglewood.
- A program to plant 1,000 new trees in nearby neighborhoods.
- A program to purchase and install 1,000 electric vehicle chargers for residences in Inglewood and the surrounding

area.

- 330 on-site electrical vehicle chargers and 20 additional publicly available chargers within Inglewood.
- Smart parking systems to more efficiently direct vehicles to parking spaces, reducing vehicle emissions.
- A comprehensive transportation demand management program that will reduce event-related and other project vehicle trips by 15%. Key elements of this program include:
 - Encouraging fans to use mass transit by providing shuttle service from three Metro stations and incentives such as integrated event and transit ticketing, discounted event tickets, and reward programs for transit users.
 - Providing park-and-ride charter bus service from locations throughout the region.
 - Incentives to encourage the use of zero-emission vehicles, carpools, vanpools, and alternative forms of transportation.
 - A local minibus/micro transit service for all event days.

After Workers Are Injured in Alabama, Work Was Momentarily Halted on Stadium Project

Work on the \$106 million Bryant-Denny Stadium renovation project at the University of Alabama in Tuscaloosa was halted briefly after two construction workers were injured when two structural precast concrete beams reportedly fell on the manlift the men were operating. News reports suggested that one of the workers was paralyzed, while the other sustained massive head trauma.

Work resumed days later as the project must be completed by the fall when Alabama hosts its first home game. "Really, the end date can't change," Alabama assistant AD for facilities Brandon Sevedge told AL.com in November. "It really can't. It's going to be absorbed by more people and more labor."

Texas Tech University Extends Netting

Just in time for the season-opener, Texas Tech University extended the netting at Dan Law Field down the first and third baselines.

Senior Associate Athletic Director Robert Giovannetti told the media that "we've had a couple of situations that were scary. So we've known for years we wanted to do this. We just needed to find the right way to get it done, and this way is the right way."

He added: "It does give people piece of mind. Some of those screaming liners you have no chance to get out of the way, now the net will stop it and it won't do anything to your line of vision to the field. To me, it's a really great solution to what we wanted to accomplish."

Segal McCambridge Hires Carla Varriale-Barker

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ment department at the University of New Haven. “She has unique expertise in defending venue liability cases (she has had notable success in spectator behavior cases), drafting enforceable waivers, releases and indemnification agreements, and she has a genuine passion for the business side of the sports, recreation, and hospitality industries.

“With her new firm, I am confident she will be able to leverage her past experience, but more than that, her firm’s attorneys and clients will realize how she is a great asset, colleague, and mentor.”

Varriale-Barker’s Passion for the Field Extends to Academia

A graduate of Boston University and New York Law School, she has taught Sports Law and Ethics at Columbia University’s Sports Management Program since 2008. Varriale-

Barker has left an impression on Scott Rosner, Academic Director of the Sports Management Program at Columbia University and a Professor of Professional Practice.

“More than anything, what I have noticed is the passion that she brings to not only the subject matter, but teaching,” said Professor Rosner. “She truly cares about her students in a way that you can’t fake. She brings it every night to every class. when you are adjunct, and you have a day job, it’s hard to always find that passion. That’s not the case with Carla.”

Varriale-Barker is an active member of professional organizations, including the Claims and Litigation Management Alliance (CLM) and the International Amusement & Leisure Defense Association, Inc. (a non-profit association of lawyers and other professionals who are actively engaged in representing the interests of the

amusement and leisure industries), and the Sports Lawyers Association. The American Bar Association has published her articles addressing gender equality and the role of sponsorship and mentorship in the legal profession. She is frequently published in *Professional Sports and the Law* and *Sports Facilities and the Law* as well as many other sports law periodicals.

That industry participation has only enhanced her depth of knowledge in sports law, something Professor Rosner marvels at.

“She has become an expert in many areas of sports law,” he said. “Some good examples of this would be legal issues in the ticketing industry and the amusement park business. They are two pretty different areas. And yet, because she practices sports law day in, day out and is a remarkably quick study, Carla has carved out a niche in those areas and many others.” ●

Captioning For Hearing Impaired Is Becoming a Necessity at Stadiums

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with these corporations. With automatic speech recognition, part of the way that all the algorithms improve is with increasing amounts of data going through the system that it does improve in quality. That means that when some of our Fortune 100 companies we work with use the automatic speech recognition, the material that is being captioned is not just going to their private audience of their employees or whoever, it’s also going up in the cloud and being mixed in with other content,

some of which is already public. I hear that they supposedly de-identify it, so you don’t know which large corporation this is, but I think we’re smart not to trust that.

Q: *Has being a first mover in the industry been a big advantage?*

A: Not at first. But we’ve been doing this for eight years now and built a lot of strong customer relationships. Those relationships are strong because of our approach to workflow. We have a system

set up with our clients where we send out an email the day before, telling them who their captioner will be. Here’s how to reach the person. Here’s all of our coordinators. We tell them please reply all with the PA script. They love this. One time somebody didn’t get the date right and they’re like, “Hey, where’s our email?” It helps them run smoothly. They’ve got a lot of stuff to do right before the game, before the door is open and they don’t want to be worrying about us. ●

IMG ARENA Secures Live NHL Game Streaming Rights For Sports Betting Platforms

IMG ARENA has secured rights to provide U.S. sports betting operators with live streams of select out-of-market National Hockey League (NHL) games via the operators’ digital betting platforms available in legalized markets.

This opportunity represents a further

example of IMG ARENA’s live streaming of NHL games for sports betting operators, which IMG ARENA has been offering in legalized European markets for several years. The NHL is a highly-valued asset in our portfolio, and we are proud to expand this successful partnership to offer one

of the largest U.S. sports to our growing customer base of sportsbooks,” said Freddie Longe, EVP and MD of IMG ARENA. “This marks a major development in the U.S. betting rights landscape, and we look forward to driving further engagement for NHL fans.”