



The New Philly Special: Appellate Court Tosses Jury Verdict against the Eagles for Restroom Fracas

Client Advisories

10.30.2019

Philadelphia sports fans have, perhaps unfairly, developed a reputation for boorish behavior. Whether it's throwing snowballs at Santa Claus or booing former Philadelphia players who have gone on to play for rivals, Philadelphia sports fans' reputation precedes them. When a major plot point for the Academy Award Winning 2012 film, *The Silver Linings Playbook*, revolved around a parking-lot fight at an Eagles game, the director didn't have to explain the stereotypes of Philadelphia sports fans-the audience just understood.

The rest of the country may be a little less familiar of another Philadelphia sports truth: we strongly dislike the Dallas Cowboys. For that reason, those who live outside of the Philadelphia area may need a little context to understand the facts of the Pennsylvania Superior Court's recent decision in *Pearson v. Philadelphia Eagles, LLC*, 2019 WL 5090976 (Oct. 11, 2019). Anyone who grew up in the Philadelphia area, however, would understand perfectly.

For the benefit of any out-of-town readers, the facts of the case are as follows: the plaintiff, a Cowboys fan, attended an Eagles-Dallas, decked out in Cowboys garb, at Lincoln Financial Field in 2014. In a restroom at halftime, some Eagles fans called the plaintiff names, and the plaintiff responded with some sports trash talk. Unfortunately, the incident did not end there. Instead, a scuffle ensued, during which the plaintiff suffered a severe foot injury that ultimately required two surgeries and resulted in chronic pain.

The plaintiff sued the Eagles and Apex, the company hired to provide security at the stadium, on the ground that they were negligent in their provision of security at the game. Specifically, the plaintiff argued that the defendants should've posted security guards in the restrooms. The case proceeded to trial and the jury returned a \$700,000 verdict for the plaintiff, finding the Eagles and Apex 50 and 30 percent, respectively, responsible for the plaintiff's injury (the jury determined that the plaintiff was 20 percent responsible).

The Eagles appealed the verdict, and Pennsylvania Superior Court determined that the trial court should've granted judgment to the Eagles, despite the jury's finding. The Court reached this decision because, under

Pennsylvania law, a business owner is liable for harm caused to customers by third parties only if (1) the business owner undertakes to provide such protection, and (2) if the business owner does so in a negligent manner.

In this case, the Eagles satisfied the first criterion. By providing security at games and requiring guests to abide by a “code of conduct” which, among other things, prohibited fighting, taunting, or threatening statements and gestures, the Eagles undertook to provide protection. However, to satisfy the second criterion, the plaintiff had to show that the Eagles negligently provided this protection by failing to post security guards in the restrooms. This is where the plaintiff’s case failed.

The plaintiff argued that the Eagles were on notice that the restrooms were a dangerous place, in need of extra security, because fights had occurred in the restrooms in the past. However, the evidence in the record established that, while fights have occurred in the restrooms at Lincoln Financial Field since it opened in 2003, they were a rare occurrence. The scarcity of restroom violence meant that the Eagles did not have reason to believe that the restrooms are especially dangerous places, and thus the failure to post security guards there did not amount to negligence.

One final point: the Court consisted of a three-judge panel that unanimously agreed that the current state of Pennsylvania law required that the Eagles prevail. However, one of the judges on the panel wrote a short concurring opinion expressing his belief that Pennsylvania law is unfair on this point. According to this judge, when there are two innocent parties (here, the plaintiff and the Eagles), the business should bear the cost of the plaintiff’s loss. One of the other judges on the panel signed on to this short opinion. It would take action by the legislature or a decision by the Pennsylvania Supreme Court to change the law. Whether the plaintiff in this case attempts to take this argument to the Pennsylvania Supreme Court remains to be seen.

If you have any questions about this case specifically, or about litigation in general, please contact any member of Archer’s **Commercial Litigation Group** in Haddonfield, N.J., at (856) 795-2121, in Princeton, N.J., at (609) 580-3700, in Hackensack, N.J., at (201) 342-6000, in Philadelphia, Pa., at (215) 963-3300, in Harrisburg, Pa. at (717) 686-4109 or in Wilmington, Del., at (302) 777-4350.

