

***Joshi v. Fitness Internat., LLC* (June 14, 2022, No. H048115) ___ Cal.App.5th ___ [2022 Cal. App. LEXIS 584]**

An employee's notation on a walk-through checklist indicating that a sauna "needed repair" is insufficient to show either gross negligence or actual or constructive knowledge of an unsafe condition, by a fitness center.

FACTS/PROCEDURE

On May 1, 2017, Mansi Joshi ("Plaintiff") was injured while using a locker room sauna at City Sports Club, an exercise facility in San Jose, California. As part of her membership at the club, Plaintiff signed a release and waiver of liability and indemnity for injuries arising from accidents at the facility. On the night in question, Plaintiff alleged that as she entered the facility's sauna, she tripped and fell onto the furnace, severely burning her right arm. Plaintiff alleged the incident was due to a lack of lighting, and that one of the interior sauna light bulbs was burned out.

Plaintiff filed a personal injury suit against the club owner, Fitness International, LLC ("Defendant"), alleging a claim for premises liability based on Defendant's failure to maintain the sauna in a safe condition. Defendant filed a motion for summary judgment, asserting any claim for ordinary negligence was barred by the release of liability Plaintiff signed. Further, Defendant argued it had no actual or constructive notice of a dangerous condition at the gym, and Plaintiff therefore could not establish a claim for premises liability. The trial court granted Defendant's motion. Plaintiff filed a timely appeal, arguing there was a triable issue of material fact to support claims for gross negligence and premises liability.

HOLDING/DISCUSSION

The Court of Appeal for the Sixth Appellate District affirmed. An exculpatory contract releasing a party from liability for future ordinary negligence is generally valid unless it is prohibited by statute, or it impairs the public interest. The Court noted numerous cases have upheld the validity of agreements waiving ordinary negligence claims in the context of use of gymnasiums and fitness facilities. Here, the Court reasoned the release at issue was "clearly the type of exculpatory contract permitted under the law." Therefore, the release barred any claim for ordinary negligence.

However, in the same context, such a release does not insulate the service provider or program from liability for gross negligence, which California courts consistently define as a "want of even scant care or an extreme departure from the ordinary standard of conduct." In the context of a motion for summary judgment, when the plaintiff fails to allege facts sufficient to support a theory of gross negligence, the defendant satisfies its burden by asserting a release as a complete defense. Here, Defendant satisfied that burden. To defeat summary judgment, the plaintiff must then provide evidence that there is a triable issue of fact supporting gross negligence.

Here, Plaintiff's sole evidence was a checklist from an employee walk-through of the facility on the day of the incident, which noted the women's sauna "needed repair." Plaintiff argued this showed that Defendant had actual or constructive knowledge of the dangerous condition of the burned-out light bulb inside the sauna. However, nothing on the checklist indicated the time of day the walk-through or observation took place—the Court reasoned it was equally likely it occurred after the incident, as before. Thus, Plaintiff failed to present a triable issue of fact in support of any of her claims. Accordingly, the trial court did not err in granting Defendant's motion for summary judgment.