

Recent Missouri Appellate Court Decisions: The Slings and Arrows (and Frankfurters) of the Leisure and Sports Industry

The Missouri Appellate Court recently authored a pair of decisions with implications for the sports and leisure industries and their fans and spectators.

In the first case, a Kansas City Royals baseball fan was injured when he was struck in the eye by a hot dog thrown by Royals mascot, “Sluggerrr”. The “Hot Dog Launch” was a regular part of Royals game-time fan entertainment. In the suit that followed, the Royals argued that the plaintiff had assumed the risk of injury. The jury agreed, delivering a defense verdict. The plaintiff appealed and the appellate court reversed, concluding that the defense of assumption of the risk should not have been submitted to the jury. The Court reasoned that assumption of the risk applies where the plaintiff is injured as the result of a danger inherent in the nature of the activity. In the case of baseball games, that includes most commonly, being struck by a foul ball. Assumption of the risk did not apply in these circumstances, according to the Court, because being struck by a flying hot dog is not a risk inherent in the game of baseball. The fact that the Hot Dog Launch had been a regular part of the Royals experience for many years did not change the Court’s view. The case is *Coomer v. Kansas City Royals*, 2013 WL 150838 (Ma. App. W.D. 2013).

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