

Risk management during sport activities: analysis of the recent legal case in Japan regarding foul ball damages on a spectator in a ballpark

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Aim

One of the key elements for solid sports development is the risk management of accidents that are inherent in sports (Ishii, 2013). This study examines the Japanese latest legal case related to the professional baseball – one of the most popular sports in Japan – specifically disputing the civil liability of clubs and stadium owners incurred by the foul ball damages on a spectator in a stadium.

Case -- X v. Hokkaido Nippon-Ham fighters, Sapporo Dome Co. Ltd., and Sapporo City, Sapporo District Court (March 26, 2015) (WA) No.1570 of 2012

On August 21, 2010, plaintiff X, a woman in her thirties, was struck by a foul ball on her right eye while watching a baseball game in a ballpark stand. As a consequence, she lost her eyesight, then she brought an action against the following entities for not taking the necessary safety measures to protect spectators in the stand: a home team (the event host), a company occupying the stadium (venue management); and the city (the stadium owner).

In similar cases in the past (Y v. Tohoku Rakuten Golden Eagles and Miyagi Prefecture, Sendai High Court (October 14, 2011) (WA) No. 716 of 2009; Z v. Hanshin Tigers and Hanshin Electric Railway, Kobe District Court (January 30, 2014) (WA) No. 947 of 2012 and (WA) No. 67 of 2013), Japanese courts had never recognized the responsibilities of either an event organizer, a venue manager, or a stadium owner, by accepting their arguments such as follows.

a) Spectators are supposed to pay reasonable attention to “open and obvious risks inherent in the game” such as foul balls and flying bats.

b) As long as reasonable safety measures are installed in an artificial structure, there is no obligation for an event organizer/venue owner to compensate the damages caused by an accident that happened during a normal usage of the structure.

However, in the case mentioned earlier, Sapporo court rejected such statements from the defendants, and stated that spectators in a stand can include small children and old people as baseball is a widely loved sport by the nation (Sakai, 2015). Then, by applying the general rules of liability regarding artificial structures (Civil code Sec. 717.1) and liability regarding public buildings (State Redress Act 2.1), the court ruled out that the safety measures taken in the area the plaintiff X was seating were not appropriate when considering the defendants' duty of caring for their spectators. The plaintiff's claim of damage was partially granted, too.

Analysis

The idea of limiting the liability of ballpark owners, so-called “the baseball rules,” have been widely recognized in the United

States (Juliano and Healey, 2009), where less screening and netting to protect spectators in the stands are provided compared to Japan. It can offer a more exciting experience but also great risks of serious injuries to spectators. Consequently, the number of serious accidents keeps increasing last years in US, and some courts finally identified the negligence of an event host or a venue owner. The Court of Appeals of Georgia has upheld a Fulton County's judgement saying the "Baseball Rule" isn't Georgia's law. (Atlanta National League Baseball Club Inc. v. F. F. Individually et al., A140398 [Georgia Court of Appeals, 2014]).

Conclusion and Implication

While “the baseball rules” are likely maintained at a certain level in Japan as well as in America, courts now seem to consider the level of spectators' safety more sensibly. Therefore, game organizers will need to meet customers' expectations for both excitement and safety in stadium, and should be aware of possible litigation risks. In order to manage these risks, in other words for victims' relief, the system of compensation, such as assurance and relief funds, have to be set up so that all sport-related civil liabilities can be compensated. Regarding this point, the New Zealand government has constructed a system to compensate all injured people, while the French government obligates all sport event organizers to be insured on their own costs. We shall need to seek our own model that will be working in Japan.

References

- Ishii, N. (2013). Civil liability for accidents during sport activities: A study on sports organizations in France. *Taikugaku kenkyu* (Japan journal of physical education, health & sport sciences) 58, 637-662.
- Juliano J. and Healey A.C. (2009) Update: ballpark liability and the baseball rule. *Legally Speaking* (Winter). Retrieved March 22, 2016 from http://www.legallyspeakingonline.com/archive_winter09-10_update.html
- Sakai, T. (2015). Foul ball jiko soshou ni kansuru Kousatsu (Analysis on the legal case regarding foul ball games in ballpark). Appeared on the website of Japanese sport law research and support center (May 6). Retrieved April 12, 2016 from: <http://jsl-src.org/?p=895>
- Tavela, D.F. (2010) Duty of care to spectators at sporting events: a unified theory. *Florida A&M University Law Review* 5:2, 181-196. Retrieved 29 March 2016 from <http://commons.law.famu.edu/famulawreview/vol5/iss2/4>
- Yamaguchi, C.T. (2013). The Price of admission: Liability in professional baseball and hockey for spectator injuries sustained during the course of the game. *Law School Student Scholarship*, paper 400. Retrieved March 29, 2016 from http://scholarship.shu.edu/student_scholarship/400