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Halloween Scares Haunt Dreams, Not Defendants

By Greg Ryan

Law360, New York (October 30, 2013, 8:32 PM ET) -- A survey of the case law reveals a frightening truth for Halloween revelers: If a bump in the night at a haunted house causes you to flee, screaming, into a wall and you hurt yourself, you probably don't have grounds to hold the operators of the attraction liable for your boo-boo.

There appear to be five reported opinions on injuries allegedly sustained at haunted houses as a result of a patron's reaction to a scare, according to White and Williams LLP counsel Randy Maniloff, who wrote about the phenomenon in his most recent biweekly newsletter on insurance law.

In all five cases, courts ruled that the operators of the haunted house could not be blamed for the injuries. The patrons knew they would be spooked and startled when they entered the attractions, and the operators cannot be held responsible for their reactions to those scares, courts have maintained.

The decisions let property owners off the hook for the sort of ghoulish behavior — wielding a chainsaw in someone's face, for instance — that's normally the stuff of premises liability attorneys' nightmares, Maniloff said.

“All bets are off on Halloween,” he said. “It's a special day.”

According to one court, it doesn't matter if the incident occurred after the patron believed she had exited the haunted house and reached a scare-free sanctuary. A woman believed she had survived a haunted house at a Louisiana mall — the guides had thanked her for coming — when Jason of “Friday the 13th” fame revved his chainsaw and popped out from behind plastic sheeting. The woman fell down and hit her head, an injury that put her in the emergency room.

A Louisiana appeals court affirmed in 1997 that the operator could not be held liable, rejecting the woman's contention that the post-“exit” scare represented an unreasonable risk of harm because it was unexpected. Haunted house visitors “are expected to be surprised, startled and scared by the exhibits and the operator does not have a duty to guard against patrons reacting in bizarre, frightened and unpredictable ways,” according to the court. The operator's duty does not relate to a particular patron's state of mind, but to the standard of care it owes to all patrons, it said.

Nor does it matter whether the incident occurred in a corn maze, rather than a house, another court ruled. Another woman nearing the end of a corn maze in Louisiana, spooked by another chainsaw-sporting Jason, broke her leg when she attempted to run away from the madman and slipped in mud. An appeals court held that the woman knew it was muddy. She also knew she would be scared, to the point that she paid an additional admission fee to enter the scarier half of the maze, it said.

In another case, a woman who had another patron shoved into her and broke her nose alleged the operator should have better controlled the crowds. But the court found she had assumed the risk of being “jostled and pushed about” when she entered the attraction.

"What the cases say are really clear. It's not complicated by any stretch," Maniloff said.

As it happens, all five haunted house scare cases are from Louisiana. Maniloff wouldn't speculate as to the reason behind the high frequency of lawsuit-worthy scares in the state, though C.J. Schoenwetter, a Bowman and Brooke LLP partner who specializes in premises liability, suggested it was because the state is "the home of voodoo and other back-swamp Cajun scary stuff."

"Perhaps it's because people don't understand the culture that they are afraid of it," Schoenwetter said.

But he speculated that Louisiana's increasing prominence in pop culture could alter its reputation.

"'Duck Dynasty' is bringing Louisiana into our homes every week. How scary can that be?" Schoenwetter said.

According to Maniloff, there have been other cases over injuries at haunted houses, but they dealt with injuries allegedly caused by conditions on the property itself, not by a scare.

Disputes over haunted houses aren't limited to personal injury cases. One man alleged in a lawsuit seeking the rescission of his agreement to purchase a home in New York state that the seller had failed to tell him she believed the house was haunted by ghosts. A New York appeals court ruled in 1991 that "as a matter of law, the house is haunted," since the seller had previously publicized the existence of the ghosts in the press, and revived the man's suit.

--Editing by Kat Laskowski and Chris Yates.