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Randy Maniloff: For the courts, getting hit by a fly ball (or a player) is just part of the game

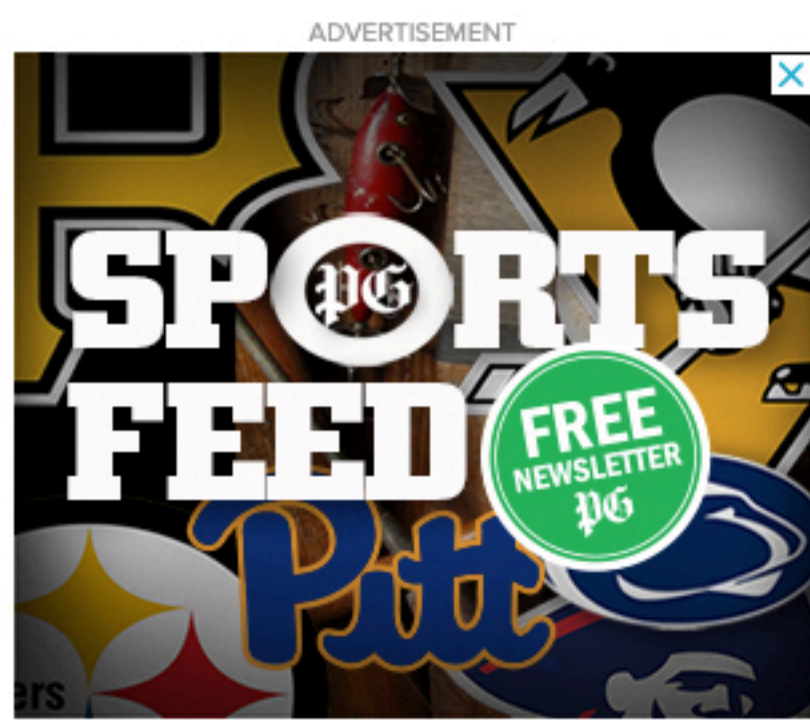
RANDY MANILOFF
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Brandon West was struck in the eye during a pop-fly drill at Little League practice. The ten-year-old sued. As he saw it, his coach should have known that catching fly balls in the sun was a skill beyond his level.

But in 2002, a California appeals court threw out the youngster's suit. The court determined that pushing players beyond their abilities is a coach's job. Further, "losing a fly ball in the sun and being hit by it is an inherent risk of baseball assumed by all players whether it happens during little league warm-ups or during Game 7 of the Major League World Series."

Despite all the stories of the legal system awarding money to people for injuries, young people playing organized sports who get hurt on the field have virtually always struck out in court. Being injured playing Little League baseball, courts generally conclude, is part of the game.

On just the third pitch of his first-ever practice, a 10-year-old boy called D.V. was struck in the mouth by a line drive. A suit brought for injuries alleged that his coach was negligent for placing the newbie in the "highly skilled" shortstop position.



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But in 2018 a New York trial court disagreed. Even as green as D.V. was, he still had a basic understanding of how the game was played and assumed the risk of being struck by the ball. As for the coach's decision to place D.V. at shortstop, that was immaterial. The risk of being hit by a batted ball, the court observed, is present at every position.

11-year-old Ryan Balthazor was struck by a wild pitch during a Little League game. His lawyer argued that the pitcher should have been removed from the game because he had struck two other batters earlier. In 1998, the California court said no. "Accuracy in pitching, especially from a teenager, has never been a prerequisite to being allowed to pitch."

Belichick and the Jets

Fans of professional sports feel that they've been injured in different ways and want to be compensated. Here again the courts tend to rule that it's all part of the game.

In 2010, a federal appeals court held that a Jets season ticket holder could not maintain fraud and racketeering claims against the New England Patriots and head coach Bill Belichick for the surreptitious videotaping of Jets' coaches and players. In rejecting the fan's claim for damages for so-called Spygate, the court held that the fan "possessed nothing more than a contractual right to a seat from which to watch an NFL game between the Jets and the Patriots, and this right was clearly honored."

The Houston Astros won the World Series in 2017 using a scheme to violate the rules against electronic sign-stealing. Three Astros supporters sued the team for fraud and deceptive trade practices for selling season-tickets knowing that its players were cheating.

The fans asserted that "once filled with pride and honor for their team, [they] are grappling with embarrassment, disappointment, shame and disgrace for a team they once believed represented their community, represented them." A Texas appeals court, in 2021, concluded that there is no cognizable claim based on how a sports team plays a game.



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Into the Stands

In 1928, a Georgia appeals court concluded that Atlanta's professional baseball team did not have to compensate a fan who was injured when the team's pitcher came into the stands and attacked him. The fan, displeased with the player's performance, had yelled "give us another pitcher." The court concluded that the team could not have anticipated or foreseen that the player would do what he did.

Courts have almost universally precluded recovery by fans for injuries sustained by being hit by a foul ball. In the eyes of the law, a baseball stadium operator is generally not liable as long as it takes certain steps to protect fans with screens.

Looking for a way around this rule, a fan hit by a foul ball at a Philadelphia Phillies game argued that he'd been distracted by the antics of the team's mascot, the Phanatic. But a Pennsylvania trial court disagreed: "A diversion which may have momentarily directed the plaintiff away from the game," even the Phanatic, "does not create an exception." In 2004 a state appeals court affirmed.

While fans and spectators have turned to courts for redress for all manner of injuries associated with sports, judges have, for at least a hundred years, turned down their claims. Sports are an escape from everyday life. This includes court rooms.

The lesson for sports fans and spectators injured by the experience: don't take me out to the law game.

Randy Maniloff is an attorney at White and Williams, LLP, in Philadelphia and an adjunct professor at the Temple University Beasley School of Law. His previous article was "McDonald's mostly stays out of hot water for its hot water."

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