**The Drunken Groomsman**

The plaintiff, Frances Tambello, and his girlfriend, Diane Papelian, were attending a party for competing horse teams hosted by Rockingham Park Ventures, Inc. The party was hosted by a jockey named Brewer Adams (I kid you not!). Adams received permission to host the party directly from the president of Rockingham Park. Adams was the most successful jockey at the track, bringing in $1.2 million in prizes. Rockingham Park sells alcohol from a licensed vendor. At this party, however, Adams was allowed to bring his own alcohol which the guests were drinking. This was a violation of the track’s own policies, which required all alcohol consumed at the park to be purchased from the licensed vendor.

The facts involved not simply over-service of alcohol but people were “funneling” beer, in addition to drinking hard liquor. The facts established that the park had no security on-duty at the party (even though they did have a full-time security staff). There were several park employees attending the party, including off-duty security guards. The groundskeeper for the park was so drunk that he had to be escorted out of the party.

Frances was a horse trainer for a team that competed with Adams’ team. Frances alleged that Connor Flynn, a groomsman on Adams’ team, was 14 years old and got very drunk and started to sexually harass Diane. Connor was groping her and saying very explicit lewd things to her.

Frances spoke to Connor to tell him to stop. Frances and Diane then decided to leave the party. As they were leaving Chris Payson, another groomsman from Adams’ team, attacked the plaintiff from behind and caused him to hit his head and he received various injuries, including a concussion, lacerations, post-concussion syndrome, vertigo, anxiety, and depression. The plaintiff alleged that as a result of his injuries he could no longer train horses.

The plaintiff sued based on negligent supervision, negligent infliction of emotional distress, strict liability based on NH Dram Shop Law, RSA 507-A, and failure to follow their own policies about service of alcohol.

The park raised the defense of contributory negligence and asserted that they should not be liable for the criminal act of someone who attacked the plaintiff. The park also argued that the plaintiff waived his claim to liability because when he entered the park, he was given a visitor badge. On the back of the badge, it contained an agreement that the visitor would not hold the track liability for any injuries which occurred while at the park.

The park introduced witnesses from Adams’ horse team who testified that the plaintiff’s girlfriend was drunk and she was the one who initiated the sexual contact with the 14-year old boy. They testified that when members of the competing team tried to stop her, she got mad and started a fight. The witnesses testified that the plaintiff intervened to break up the fight. As he was doing so, the plaintiff and Chris Payson exchanged words and the plaintiff struck Payson. A further scuffle occurred and during that encounter the plaintiff fell and was injured.

The plaintiff and his girlfriend adamantly denied this version of events and claimed that these witnesses were lying because they belonged to the competing team.

The plaintiff admitted on cross-examination that he had a number of pre-existing injuries from his prior career as a carpenter. He even had received disability from that work before he started his career as a horse trainer.

All of the witnesses for both parties had prior criminal records based on drinking and assaultive behavior.

The plaintiff is 58 years old.

Medical bills were $38,285.36.

Defendant’s insurance co: American Specialty

Policy Limits: $1,000,000

Plaintiff worked as a carpenter for 33 years after graduating from high school. He retired from that work in 2001 for arthritis in his shoulder. He began training horses full-time at that point but had been involved in racing and training for 20 years. He made $19,500 in the first half of 2008 before the accident. He was granted SSDI after the accident and gets $529/month.