

SUPERIOR COURT  
OF THE  
STATE OF DELAWARE

E. SCOTT BRADLEY  
JUDGE

1 The Circle, Suite 2  
GEORGETOWN, DE 19947

March 14, 2013

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***RE: Lillian Bartlett v. Seaford School District, et al.***  
***C.A. No: S12C-11-023 ESB***

Dear Counsel:

This is my decision on the defendants' Motion to Dismiss the plaintiff's complaint. The plaintiff went to a basketball game on the premises of the Seaford School District. According to her complaint, "[a]s she was leaving, following the crowd, she tripped over a foot high step-up which was masked by the crowd." The complaint further alleges that "[t]he School District failed to provide a safe floor for a guest." These are the only allegations regarding liability. The defendants argue that the plaintiff's complaint must be dismissed because the defendants<sup>1</sup> are immune from civil liability under the Delaware State Tort Claims Act ("DSTCA").<sup>2</sup> The DSTCA

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<sup>1</sup> The plaintiff sued the Seaford School District and the superintendent and school board members in their official capacity.

<sup>2</sup> 10 *Del. C.* §4001.

provides immunity from civil liability where (1) the act or omission complained of arose out of an official duty involving the exercise of discretion on the part of the public officer, (2) the act or omission complained of was done in good faith, and (3) the act or omission complained of was done without gross or wanton negligence. I agree that the plaintiff has not pled any facts that would establish the absence of the immunity provided for by the DSTCA. Indeed, it is difficult to conclude that the plaintiff has even pled a claim for simple negligence. The plaintiff's allegations regarding liability consist of two brief sentences. In sum, the plaintiff alleges that, while leaving a basketball game, she "tripped over a foot high step-up which was masked by the crowd" and that the school district "failed to provide a safe floor for a guest." Frankly, I can not tell what she is talking about or how the school district was negligent. Thus, I will dismiss the plaintiff's complaint for failing to adequately allege the lack of immunity provided for by the DSTCA and for failing to adequately plead negligence with particularity as required by Superior Court Civil Rule 9(b).

IT IS SO ORDERED.

/s/ E. Scott Bradley  
E. Scott Bradley

ESB/sal  
cc: Prothonotary