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**Superior Court of California, County of Alameda
Rene C. Davidson Alameda County Courthouse**

Bueno

Plaintiff/Petitioner(s)

VS.

Texas Rangers Baseball Company

Defendant/Respondent(s)

(Abbreviated Title)

No. RG05210228

Order

Motion for Summary Adjudication
Denied

The Motion for Summary Adjudication filed for SW Sports Group, LLC and Carlos Almanzar and Doug Brocail and Frank Francisco and Texas Rangers Baseball Company was set for hearing on 12/07/2006 at 02:00 PM in Department 31 before the Honorable Frank Roesch. The Tentative Ruling was published and was contested.

The matter was argued and submitted, and good cause appearing therefore,

IT IS HEREBY ORDERED THAT:

The tentative ruling is affirmed as follows: The Motion of Defendants Southwest Sports Group LLC dba Texas Rangers Baseball Company, Carlos Almanzar, Doug Brocail, and Frank Francisco For Summary Adjudication Against Plaintiff Jennifer Bueno is DENIED as follows:

1. The Motion for Summary Adjudication of the First Cause of Action For Battery against Defendants Carlos Almanzar and Doug Brocail is DENIED. There is a triable issue of material fact of whether Defendants Carlos Almanzar and Doug Brocail "substantially assisted or encouraged" Defendant Frank Francisco in the commission of the alleged intentional tort. See Nos. 1-5 of Plaintiff's Separate Statement of Disputed Facts.

2. The Motion for Summary Adjudication of the Second Cause of Action For Assault against Defendants Doug Brocail and Frank Francisco is DENIED. The Court exercises its discretion to deny the Motion for Summary Adjudication because the only evidentiary proof of the absence of the element "intent" needed to establish assault as to Defendant Brocail is contained in the self-serving declaration of Defendant Doug Brocail, the individual whose state of mind is at issue. Further, Defendant's Undisputed Material Fact No. 14 does not demonstrate Plaintiff's alleged lack of "imminent apprehension of harm." Defendant Francisco is alleged to have done more than simply and only throw a chair into the stands.

3. The Motion for Summary Adjudication (1) of each of the five causes of action stated (2) against Defendants and (3) on the punitive relief sought is DENIED. The discovery to which Defendants refer to as "factually devoid" is discovery to which Plaintiff has objected. Plaintiff's objections to the Special Interrogatories, Set One do not admit any issue or fact upon which a motion for summary adjudication can be based. Further, there appears to be no ruling from this Court on any motion to compel the discovery cited by Defendants in support of their motion.

The Objections of Defendants to Evidence Submitted by Plaintiff are ruled upon as follows: Objection

Order

No. 1 is OVERRULED. Objection No. 2 is SUSTAINED for a lack of authentication.

The Request of Defendants for Judicial Notice is DENIED.

The Motion of Defendants Southwest Sports Group LLC dba Texas Rangers Baseball Company, Carlos Almanzar, Doug Brocail, and Frank Francisco For Summary Adjudication Against Plaintiff Andre Verman is DENIED as follows:

1. The Motion for Summary Adjudication of the First Cause of Action For Battery against Defendants Carlos Almanzar and Doug Brocail is DENIED. There is a triable issue of material fact of whether Defendants Carlos Almanzar and Doug Brocail "substantially assisted or encouraged" Defendant Frank Francisco in the commission of the alleged intentional tort. See Nos. 1-14 of Plaintiff's Separate Statement of Facts.

2. The Motion for Summary Adjudication of the Second Cause of Action For Assault against Defendant Doug Brocail is DENIED. The Court exercises its discretion to deny the Motion for Summary Adjudication because the only evidentiary proof of the absence of the element of "intent" needed to establish assault is contained in the self-serving declaration of Defendant Doug Brocail, the individual whose state of mind is at issue.

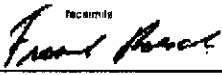
3. The Motion for Summary Adjudication (1) of the First, Second, Third and Fifth Causes of Action stated (2) against Defendants and (3) on the punitive relief sought is DENIED. Plaintiff's responses do not appear to admit any issue or fact upon which a motion for summary adjudication can be based.

The Request of Plaintiff for Judicial Notice is GRANTED.

The Request of Defendants for Judicial Notice is DENIED.

The Objections of Defendants to Evidence Submitted by Plaintiff are ruled on as follows: Objection No. 1 is OVERRULED. Objection No. 2 is OVERRULED.

Dated: 12/07/2006



Judge Frank Roesch