

Nationals/MLB

Court: Royals fan hit by hot dog gets new trial



FILE - In this Aug. 24, 2009 file photo, Kansas City Royals mascot "Sluggerrr" throws hot dogs into the crowd during a baseball game in Kansas City, Mo. The Missouri Supreme Court ordered Tuesday, June 24, 2014, for a new trial for a Kansas City Royals fan injured by a hot dog tossed by the team mascot. (Charlie Riedel/Associated Press)

BY ASSOCIATED PRESS June 24

KANSAS CITY, Mo. — In a ruling that could force sports teams to reassess how their mascots interact with spectators, the Missouri Supreme Court on Tuesday ordered a new trial for a Kansas City Royals fan who was injured by a hot dog tossed at a baseball game.

The state's highest court said in a unanimous ruling that a legal standard called the baseball rule, which protects teams from being sued over fan injuries caused by events on the field, court or rink, didn't apply to a mascot tossing hot dogs to fans in the stands.

The state Supreme Court said the risk of being injured by a tossed hot dog is not an inherent risk of watching a baseball game.

"That risk is no more inherent in watching a game of baseball than it is inherent in watching a rock concert, a monster truck rally, or any other assemblage where free food or T-shirts are tossed into the crowd to increase excitement and boost attendance," the court said in its 36-page ruling.

John Coomer of Overland Park, Kansas, said he was injured at a 2009 Royals game when the team's mascot, Sluggerrr, threw a wrapped hot dog into the stands, striking Coomer in the eye. Coomer had two surgeries, including one to repair a detached retina. He was seeking compensation in excess of \$20,000 from the team.

The Missouri Supreme Court ruling said a jury that first heard the case and sided with the Royals were improperly instructed to consider whether the risk of the injury from the mascot was an inherent risk of watching the game.

"No such argument applies to Sluggerrr's hotdog toss," the ruling said. "Millions of fans have watched the Royals (and its forebears in professional baseball) play the National Pastime for the better part of a century before Sluggerrr began tossing hotdogs, and millions more people watch professional baseball every year in stadiums all across the country without the benefit of such antics."



However, Royals attorney Scott Hoffer said another jury may still rule for the Royals. Hofer noted that the jury at the first trial found Coomer was at fault because he wasn't aware of what was going on around him.

"Notably, the Supreme Court did not say the jury was wrong when it assigned Mr. Coomer 100% of the fault," Hofer said. "We don't see how what the Supreme Court did will affect how a jury views this case."

Bob Tormohlen, who represented Coomer, said he was pleased with the ruling.

"It's always good to win," Tormohlen said. He said he hadn't yet discussed the decision with Coomer.

Randy Maniloff, a Philadelphia lawyer who often writes about cases involving sporting event spectators, said he was surprised by the decision. He said the ruling could force sports teams to rethink how mascots in the stands interact with spectators.

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